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Ontario. Municipal Board

Government
Publications

46th and 47th Annual Reports

OF THE

ONTARIO MUNICIPAL BOARD

Years Ending

December 31st, 1951

December 31st, 1952

PRESENTED TO THE LEGISLATIVE ASSEMBLY
BY COMMAND

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Sessional Paper No. 17—1954

ONTARIO

TORONTO
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Queen's Most Excellent Majesty, 1954

Re Forty-Sixth Annual Report

Dear Sir:

I have the honour to send you herewith the Forty-Sixth Annual Report of the Ontario Municipal Board to December 31, 1951.

Your obedient servant,

(Sgd.) L. R. CUMMING,
Chairman.

The Honourable G. H. Dunbar,
Minister of Municipal Affairs,
Parliament Buildings,
Toronto.

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FORTY-SIXTH ANNUAL REPORT

OF THE

ONTARIO MUNICIPAL BOARD

To December 31st, 1951

PRESENTED TO THE LEGISLATIVE ASSEMBLY
BY COMMAND

ORGANIZATION
of the
ONTARIO MUNICIPAL BOARD
of the
PROVINCE OF ONTARIO
1951

L. R. CUMMING, M.A. . . . . *Chairman*

W. P. NEAR, B.A., Sc. . . . . *Vice-Chairman*
(Retired June 26th, 1951)

W. J. MOORE, O.L.S. . . . . *Jr. Vice-Chairman*
(Appointed Sr. Vice-Chairman, July 3rd, 1951)

R. C. ROWLAND . . . . . *Member*
(Appointed Jr. Vice-Chairman, July 3rd, 1951)

R. H. YEATES . . . . . *Member*

G. A. LISTER . . . . . *Member*

R. L. KENNEDY . . . . . *Member*
(Appointed February 15th, 1951)

C. W. YATES, K.C. . . . . *Member*
(Appointed August 16th, 1951)

M. B. SANDERSON . . . . . *Secretary*

J. A. McDONALD . . . *Supervisor of Telephone Systems*

FORTY-SIXTH ANNUAL REPORT

OF THE

Ontario Municipal Board

to December 31st, 1951

In pursuance of Section 103 of "The Ontario Municipal Board Act" (R.S.O. 1950, C. 262, as re-enacted by Ontario Statutes 1952, C. 71, Section 3), The Ontario Municipal Board submits its Forty-Sixth Annual Report.

APPLICATIONS TO THE BOARD

The Board held meetings during the year for the transaction of routine business and the consideration of 5,887 applications (exclusive of applications for Public Vehicle and Public Commercial Vehicle licences) and with respect to these applications 4,755 orders were issued. A statement showing the number of these, classified as to general purpose and legislation will be found in the Appendix (See Lists Nos. I and II). This does not indicate that the balance of the applications were refused as the orders issued included some with respect to applications received in the previous year, and a number of applications received have been carried forward as incomplete. A clarification of the days occupied by public hearings conducted during the year will be found in List III. Many of these applications, although dealt with by the Board without a formal hearing, entailed considerable correspondence, inquiry and consideration on the part of the Board, especially those coming under Section 67 of the Board's Act. (R.S.O. 1950, C. 262), which requires all municipal expenditures involving the issue of debentures or deferred payments to be approved by the Board. Actually the record of formal applications with respect to proposed capital expenditures does not reflect the number of proposals of this type which have been considered. At the request of municipal councils and officials, the Board has devoted a great deal of time to conferences and informal discussions of local problems, particularly as they affect municipal financing. In this way, and without in any way denying or limiting the right of a municipality to make application for approval, the Board has provided a useful service, and in many cases the Board has been able to avoid unnecessary delay in dealing with applications and, in some instances, to advise against preliminary expense in preparing an application which was not advisable because of existing obligations and which was not likely to be approved.

CAPITAL EXPENDITURE

Unquestionably, the most important function performed by the Board is still the approval of proposed municipal borrowings, as required by Section 67 of The Board's Act. As will be noted, applications for these approvals far

outnumbered other applications, and while the number in 1951 was 173 less than in 1950, the total amount involved was greater by $1,195,700.00. This indicates that the postwar need for long term financing of capital projects has not yet abated. The following comparable table shows the trend over the last five years:

1947—1,900	applications,	totalling	$82,961,282.00
1948—3,477	"	"	87,858,171.00
1949—3,414	"	"	92,752,638.00
1950—5,154	"	"	151,526,612.00
1951—4,981	"	"	152,722,374.00

The following list (generally speaking) shows the maximum debenture term allowed by the Board:

Sidewalks	10 years
Curbs and Gutters	10 years
Pavements	10 years
Watermains	15 years
Sanitary Sewers	15 years
Trunk Sewers	20 years
Buildings, including schools	20 years

Under Section 67 of The Board's Act, clause (d) the approval of the Board is necessary when a municipality desires to undertake a project of a municipal borrowing which is to be paid for wholly or in part in a subsequent year or years without issuing debentures. The Board has adopted the practice of refusing approval of such applications when the repayment period is longer than three years.

A recital in the debenture by-law of the Board's approval pursuant to Section 67 of its Act is obligatory. (See Section 298 (1) (e) of "The Municipal Act").

There must also be included in a debenture by-law a redemption clause, and in addition to the statutory notice provided by Paragraph 298 (13) (d) of "The Municipal Act," the Board's approval is required in respect to the manner of giving such further notice as the by-law provides. In this respect the Board usually requires that in addition to the statutory notice, notice must also be published once in a daily newspaper of general provincial circulation, published in the City of Toronto, and once in a local newspaper.

RESTRICTED AREA BY-LAWS

Attention should be drawn to the increased duties required of the Board in connection with the approval of restricted areas or land use by-laws and amendments which are enacted by local councils under authority of Section 390 of "The Municipal Act" (R.S.O. 1950, C. 243). The number of such applications reflects the postwar interest in community planning and zoning. There has also been an increased number of references to the Board under Section 29 of "The Planning Act." Under this legislation the Minister of Planning and Development may refer to the Board any matter in which the approval or consent of the Minister is required and on such reference the approval or consent of the Board has the same force and effect as that of the Minister.

ANNEXATIONS AND AMALGAMATIONS

Increased industrial activity in urban centres and the need for additional space for housing led to 49 applications to the Board for annexation of additional lands under the authority of Section 20 of "The Municipal Act." Public hearings were held on all these applications, several of which continued for two days or more. Reference to the more important of the Board's decisions in respect of the applications disposed of in 1951 will be found in the Appendix, indexed under "Amalgamation and Annexations." During the year the Board continued the public hearing of the City of Toronto application for amalgamation with the twelve suburbs which had been commenced on June 19th of 1950. The evidence and argument were completed on June 7th, 1951, and the Board's decision was reserved.

ARBITRATIONS

In 1951 the Board was requested to act as arbitrators in respect of 54 matters brought before it. Of these ten were under Section 359 of "The Municipal Act," two under Section 37 and four under Section 38 of "The Conservation Authorities Act," nine under Section 50 of "The High Schools Act," six under Section 91 and one under Section 92 (1) (5) of "The Highway Improvement Act," one under Section 20 (9) (b) of "The Municipal Act," seven under Section 15 (7) and twelve under Section 29 of "The Planning Act," one under Section 32 (7) of "The Power Commission Act" and one under Section 28 of "The Public Works Act." Reference to the more important decisions will be found in the Appendix.

ASSESSMENT APPEALS

Since 1948 taxpayers have had the right under Section 80 of "The Assessment Act" (R.S.O. 1950, C. 24), to appeal their assessment to the Board from the decision of the local Court of Revision or of the County Judge. In 1951, 91 appeals were filed. Each appeal entailed a public hearing and because of the volume of evidence introduced some of the hearings have taken considerable time. References to the more important decisions will be found in the Appendix.

PROVINCIAL RAILWAYS

Extensions to and improvements of Railways operating under Provincial Charter in 1951 as reported to the Board will be found in the Appendix, arranged alphabetically under the names of the several systems reporting.

Annual reports, to December 31st, 1951, by Railway Companies under the Board's jurisdiction were received, of which a summarized tabulation has been prepared for publication herein. The Board has no means of auditing these reports as received and cannot therefore vouch for the accuracy of the figures taken therefrom.

Under "The Railway Act" (R.S.O. 1950, C. 331), there were five applications to the Board in 1951.

A tabulation of Accident Reports received by the Board from the Provincial Railways during the year 1951 is included in the Appendix, and shows that 10 were killed and 1,752 injured during the year. (See List Number IV).

PUBLIC VEHICLE AND PUBLIC COMMERCIAL VEHICLE LICENCES

Pursuant to "The Public Vehicles Act" (R.S.O. 1950, C. 322) and "The Public Commercial Vehicles Act" (R.S.O. 1950, C. 304), no Public Vehicle or Commercial Vehicle licence, respectively, may be issued by the Department of Highways without the approval of the Board being first obtained as evidence by a Certificate of Public Necessity and Convenience of the said Board furnished to that Department, and then only in accordance with such Certificate. Upon the granting of a Certificate by the Board, the Department may then, in its discretion, issue or refuse a licence.

The Board set aside fifty-two days during the year for hearing the applications for Certificates of Public Necessity and Convenience. In addition the Board set aside one morning each week to deal with the matter of transfers and other details brought before it by the Public Vehicle Division.

During the year 104 applications were made for Public Vehicle licences, and 1,444 for Commercial Vehicle Licences. These include applications for extensions to and clarification of existing licences, and a classification of these and the disposition of same are set forth in the Appendix. (See List No. V).

SITTINGS OF THE BOARD

Public Hearings held throughout Ontario in the past year numbered 858, exclusive of hearings with respect to applications for Public Vehicle and Public Commercial Vehicle certificates. The hearings necessitated a great deal of travelling by members of the Board, but permitted the presentation of all the evidence and the hearing of all interested parties, within the area especially concerned, without the expense of transportation to distant points.

REVENUE

Section 102 of "The Ontario Municipal Board Act" provides for the imposition of certain fees. During 1951 the Board's fees on applications amounted to $200,863.43, exclusive of fees on applications for Public Vehicles and Public Commercial Vehicles licences collected by the Department of Highways and credited to the Board amounting to $5,219.00.

Appendix to the FORTY-SIXTH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD to December 31st, 1951

LIST NO. I

During the year there were 4,981 applications made, of which 3,672 were approved in a total amount of $152,722,374.91 and 1,309 applications were either refused or incomplete at the end of the year. A classification of the approved applications follows:

	Number of Applications	*Amount Approved*
I. MUNICIPAL:		
(1) General Government Municipal Buildings, Fire Halls, etc	24	$1,343,870.59
(2) Protection to Persons and Property	49	3,247,446.23
(3) Public Works	1,720	48,636,104.52
(4) Sanitation and Waste Removal	567	3,604,914.89
(5) Health	25	11,034,631.69
(6) Recreation and Community Services, Parks, Community Halls, etc	21	1,211,269.40
II. EDUCATION:		
(1) Public and Elementary Schools	332	30,491,512.08
(2) Secondary and Vocational Schools	54	18,755,206.18
III. MUNICIPAL ENTERPRISES:		
(1) Electrical Distribution System	41	7,926,381.00
(2) Water	835	18,682,368.06
(3) Other	4	7,788,670.27
	3,672	$152,722,374.91

List No. II

	Number of Applications
AID GRANTED TO CERTAIN WAR MEMORIALS AND RECREATIONS, HEALTH OR COMMUNITY CENTRES—Section 56 (b) of the Board's Act (R.S.O. 1950, C. 262)	1
AMALGAMATIONS AND ANNEXATIONS: Section 20 of The Municipal Act (R.S.O. 1950, C. 243)—	
Applications filed	42
Applications approved	26
Applications refused	6
Applications approved in respect to which objections were filed	2
Objections filed and withdrawn	2
Total number of Hearings	50
ARBITRATIONS:	
Section 359 of "The Municipal Act"—(R.S.O. 1950, C. 243)	10
The Conservation Authorities Act—Section 38 (O.S. 1950, C. 62)	4
The Conservation Authorities Act—Section 37 (O.S. 1950, C. 62)	2
The High Schools Act—Section 50 (R.S.O. 1950, C. 165)	9
The Highway Improvement Act—Section 91 (R.S.O. 1950, C. 166)	6
The Highway Improvement Act—Section 92 (1) (5)—(R.S.O. 1950, C. 166)	1
The Municipal Act—Section 20 (9) (b)—(R.S.O. 1950, C. 243)	1
The Planning Act—Section 15 (7)—(R.S.O. 1950, C. 277)	7
The Planning Act—Section 29—(R.S.O. 1950, C. 277)	12
The Power Commission Act—Section 32 (7)—(R.S.O. 1950, C. 281)	1
The Public Works Act—Section 28—(R.S.O. 1950, C. 323)	1
ALTERATIONS OF AREAS: Section 21 of The Municipal Act—(R.S.O. 1950, C. 243):	
Enlarging of sewer area	3
Enlarging of water area	1
ASSESSMENT APPEALS: Section 80 of The Assessment Act—(R.S.O. 1950, C. 24) Involving property and business assessments	91
Section 91	nil
SECTION 64 (2) OF THE BOARD'S ACT—(R.S.O. 1950, C. 262)	1
RELIEF FROM REBUILDING OF BRIDGES—Sections 453, S.S. 10 and 11 of The Municipal Act (R.S.O. 1950, C. 243)	1
INCREASE IN BUS FARES—Section 388 (92) (d) of The Municipal Act (R.S.O. 1950, C. 243)	1
DEBENTURE INTEREST DATE CHANGED—Section 303 (1) (c) of The Municipal Act (R.S.O. 1950, C. 243)	1
DEFAULTING MUNICIPALITIES—Leave to Commence Action—Section 31 of The Dept. of Municipal Affairs Act	1
DEFAULTING MUNICIPALITIES—Refunding—Section 34 of The Dept. of Municipal Affairs Act	1
DEFAULTING MUNICIPALITIES—Supervision by The Department of Municipal Affairs—Section 26 of The Dept. of Municipal Affairs Act	1

List No. II

	Number of Applications
DISSOLUTION OF CORPORATIONS, LOCAL BOARDS, ETC.—Section 47 of The Municipal Act (R.S.O. 1950, C. 243)	1
THE MUNICIPAL DRAINAGE ACT—Section 67 (R.S.O. 1950, C. 246).	2
THE MUNICIPAL DRAINAGE ACT—Sections 80 and 95 (R.S.O. 1950, C. 246)	1
EXTENSION OF TIME FOR PASSING BY-LAW—Section 290 (5) of The Municipal Act (R.S.O. 1950, C. 243)	1
THE MUNICIPAL FRANCHISES ACT (R.S.O. 1950, C. 249)—Section 8.	4
THE HIGH SCHOOLS ACT—Section 49 (c)—(R.S.O. 1950, C. 165)	8
HIGHWAYS—CLOSING BY DEPT. OF HIGHWAYS OF COUNTY, TOWNSHIP, ETC., ROADS—Section 92 of The Highway Improvement Act (R.S.O. 1950, C. 166)	1
ESTABLISHMENT OF HIGHWAYS LESS THAN 66 FEET IN WIDTH—Section 476 (2) of The Municipal Act (R.S.O. 1950, C. 243)	3
INCORPORATION OF AN IMPROVEMENT DISTRICT—Section 43 of The Municipal Act (R.S.O. 1950, C. 243)	1
INCREASED BORROWINGS BY MUNICIPAL COUNCILS—Section 341, S.S. (2) of The Municipal Act (R.S.O. 1950, C. 243)	3
INCREASE AND DECREASE IN RATES OF INTEREST ON DEBENTURES—Section 303 of The Municipal Act (R.S.O. 1950, C. 243)	117
LEGISLATION—SPECIAL	13
LICENSE FEE FOR BICYCLES—Section 388 (109) of The Municipal Act (R.S.O. 1950, C. 243)	4
LOCAL IMPROVEMENTS—ABANDONMENT OF PART OF—Section 18 of The Local Improvement Act (R.S.O. 1950, C. 215)	6
LOCAL IMPROVEMENTS—OPENING, WIDENING, EXTENDING, GRADING AND PAVING OF A LANE—Section 29 (3) of The Local Improvement Act (R.S.O. 1950, C. 215)	47
LOCAL IMPROVEMENTS—APPORTIONMENT OF COST—Section 27 (3) of The Local Improvement Act (R.S.O. 1950, C. 215)	2
LOCAL IMPROVEMENTS—CHANGE IN LOCAL IMPROVEMENT AREAS—Section 65 of The Local Improvement Act (R.S.O. 1950, C. 215)	3
THE DEPARTMENT OF MUNICIPAL AFFAIRS ACT—Part III (R.S.O. 1950, C. 96)	1
THE MUNICIPAL CORPORATIONS QUIETING ORDERS ACT 19 (R.S.O. 1950, C. 245)	20
THE PLANNING ACT—(see Arbitrations)	
THE PUBLIC HEALTH ACT—Section 308 (R.S.O. 1950, C. 306)	1
THE PUBLIC PARKS ACT—Section 12 (6)—(R.S.O. 1950, C. 314)	2
THE PUBLIC PARKS ACT—Section 17 (5)—(R.S.O. 1950, C. 314)	1
THE PUBLIC PARKS ACT—Section 17 (7)—(R.S.O. 1950, C. 314)	1
PUBLIC UTILITIES—CONTRACTS FOR SUPPLY OF—Section 301 of the Municipal Act (R.S.O. 1950, C. 243)	1
THE RAILWAY ACT—Section 166	1
Section 177	2
Section 188	1
Section 265	1

List No. II

Number of Applications

RESTRICTED AREAS: (Establishment of)—Section 390 of The Municipal Act (R.S.O. 1950, C. 243):

Total number of applications filed	158	
Total number of applications approved	131	
Total number of applications refused	4	
Total number of applications filed in respect to general zoning of the entire municipality	19	
Total number of applications filed in respect to a portion only of the municipality	116	
Total number of Hearings	439	(A number of these are R.A.'s and R.A. Amending.)

RESTRICTED AREAS—AMENDMENTS TO: Section 390 of The Municipal Act:

Total number of applications filed	217	
Total number of applications approved	180	
Total number of applications refused	10	
Total number of Hearings	see above	

RESTRICTED AREA APPEALS UNDER SUB-SEC. (17) OF SECTION 390 OF THE MUNICIPAL ACT:

Total number of applications filed	7	
Total number of applications approved	2	
Total number of applications refused	2	

RETIREMENT ALLOWANCE: Section 257 of The Municipal Act (R.S.O. 1950, C. 243) 7

RETIREMENT OF UNMATURED DEBENTURES: Section 56 (d) of The Ontario Municipal Board Act (R.S.O. 1950, C. 262) 1

SEWER RATES—Section 389, S.S. 2, 5 and 6 of The Municipal Act (R.S.O. 1950, C. 243) 4

SINKING FUNDS—TRANSFER OF SURPLUS TO GENERAL ACCOUNT—Section 318 of The Municipal Act (R.S.O. 1950, C. 243) 3

SINKING FUNDS—AUTHORITY TO DISPENSE WITH FURTHER LEVY—Section 319 of The Municipal Act (R.S.O. 1950, C. 243) 1

SINKING FUNDS—INVESTMENT OF SINKING FUND MONIES FOR PURCHASE OF DEBENTURES—Section 325 of The Municipal Act (R.S.O. 1950, C. 243) 3

THE TRUSTEES ACT—Section 19 (R.S.O. 1950, C. 400) 1

DISPENSATION OF VOTE—Section 66 of The Board's Act (R.S.O. 1950, C. 262) 49

DIVISION OF CITIES, ETC., INTO WARDS—Section 42 of The Municipal Act (R.S.O. 1950, C. 243) 4

WEIGHING OF COAL AND COKE—Section 392 of The Municipal Act (R.S.O. 1950, C. 243) 2

906

PUBLIC HEARINGS—1951 List No. III

	Number of Days
Amalgamations	50
Annexations	49
Arbitrations	
Drainage Act	2
High School Act	4
Highway Improvement Act	7
Municipal Act	5
Planning Act	9
Power Commission Act	4
Public Works Act	1
Railway Act	1
Assessment Appeals	52
Dispensation of Vote	41
Improvement District, Incorporations	3
Local Improvements	33
Public Commercial Vehicles	58
Restricted Area By-Laws	439
Telephone Hearings	18
	776

SUMMARY OF ALL ACCIDENTS ON ALL LINES OF T.T.C. SYSTEM

January 1st, 1951 to December 31st, 1951

List No. IV

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Collision with Cars	17	16	16	25	22	25	18	20	23	24	38	24	268
Collision with Autos and Trucks	620	650	606	601	682	576	493	564	717	722	806	1,282	8,319
Collision with Motor Cycles and Bicycles	0	0	3	10	3	8	3	7	8	2	6	2	52
Collision with Wagons	1	3	2	2	4	0	4	4	1	0	2	3	26
Fell Boarding Cars	11	21	8	9	9	12	9	10	13	9	14	22	147
Fell Alighting from and Caught in Doors	43	44	43	49	42	38	34	37	43	44	47	37	501
Fell in Cars and Trolleys	49	65	51	49	68	52	32	43	45	58	57	58	627
Miscellaneous	43	43	39	47	49	41	49	33	57	38	60	46	545
Total	784	842	768	792	879	752	642	718	907	897	1,030	1,474	10,485
Personal Injuries—Passengers	96	127	128	178	113	132	105	112	99	129	165	126	1,510
Personal Injuries—Others	27	17	16	20	23	28	15	12	28	15	22	19	242
Total	123	144	144	198	136	160	120	124	127	144	187	145	1,752
Fatal Injuries—Passenger	0	0	0	0	0	0	0	0	0	0	0	0	0
Fatal Injuries—Others	1	0	1	2	0	0	0	2	1	2	1	0	10
Total	1	0	1	2	0	0	0	2	1	2	1	0	10

ONTARIO MUNICIPAL BOARD APPLICATIONS

January 1st to December 31st, 1951

List No. V

	Public Vehicle	School Vehicle	A	B	C	D	E	F	FS	H	K	Total
Applications received	104	370	47	3	48	223	138	415	54	18	24	1,444
Applications granted	71	370	22	3	24	142	104	372	45	7	16	1,176
	68.2%	100%	46.8%	100%	50%	63.7%	75.4%	89.7%	83.3%	38.9%	66.7%	81.4%
Applications dismissed	13	0	9	0	18	40	12	12	6	9	4	123
	12.5%	.....	19.2%	.....	37.5%	18%	8.7%	2.9%	11.1%	50%	16.7%	8.5%
Applications cancelled for non-use	1	0	1	0	0	8	8	20	0	0	2	40
	1.0%	.....	1%	.....	.....	2.1%	5.8%	4.8%	.....	.....	8.3%	2.8%
Applications withdrawn by applicants	6	.....	3	0	1	7	2	8	3	.....	.....	30
	5.8%	.....	6.4%	.....	2.1%	3.1%	1.4%	1.9%	5.6%	.....	.....	2.1%
Applications on reserved list as of Dec. 31st	7	.....	8	0	1	11	12	3	.....	.....	.....	42
	6.7%	.....	17%	.....	2.1%	4.9%	8.7%	7%	.....	.....	.....	2.9%
Applications on adjourned list as of Dec. 31st	6	.....	4	.....	4	15	.....	.....	.....	2	2	33
	5.8%	.....	8.5%	.....	8.3%	6.7%	.....	.....	.....	11.1%	8.3%	2.3%

Total amount of fees from January 1st, 1951 to December 31st, 1951, $5,219.90.

January 17th, 1952.

Report of the Supervisor of Telephone Systems

The following applications under the provisions of "The Telephone Act" (R.S.O. 1950, C. 387), were dealt with by the Board in 1951:

Under Section 7:	For authority to issue debentures for extensions and improvements to Telephone Systems under Part I	2
Under Section 19:	For the establishment of a Municipal Telephone System under Part II	1
Under Section 28:	For the authority to pass Municipal debenture by-laws to meet the cost of reconstruction, replacing or altering telephone systems	2
Under Section 32:	For the approval of the purchase of an existing telephone system or any portion thereof, by a Municipality	4
Under Section 33:	For determination of the compensation to be made by the initiating Municipality upon expropriation of a telephone system	1
Under Section 52:	For an Order approving appointment of Commissioner to fill vacancy	3
Under Section 58:	For approval of by-laws of Initiating Municipality providing for assumption by the Council of control and management of a Municipal Telephone System	1
Under Section 59:	For an Order prescribing date for holding annual meeting of subscribers	12
Under Section 80:	For approval of Municipal by-laws granting the right to erect poles and wires upon the highways	5
Under Section 88:	For approval of by-laws of a telephone company	14
Under Section 97:	For approval of agreements for interchange of service	25
Under Section 102:	For approval of sale of telephone systems	4
Under Section 103:	For approval of charges for telephone service	167
Under Section 110:	For authority to expend a portion of the monies for depreciation upon new construction or extensions or in the purchase of securities	6
Under Section 111:	For authority to issue stocks and bonds	5
	Total Number of Applications	252

In addition to the above applications, a vast amount of correspondence relating to telephone matters has been dealt with by the Board's Supervisor of Telephone Systems, through the medium of which much information and assistance has been given to municipalities, companies and other persons interested, and many difficulties which might otherwise have necessitated a formal application and public hearing have been satisfactorily adjusted.

The number of telephone systems within the jurisdiction of Ontario of which the Board has record is 498, operating 163,938 telephones, 29,714 miles of pole lead carrying 262,856 miles of wire representing an investment of nearly $20,000,000.

During the year the following changes were made in the Board's records of telephone systems coming within its jurisdiction:

The plant and assets of the Ingleside Telephone Company Limited were acquired by the Oxford Telephone Company Limited.

The Board approved of the transfer of the plant and equipment of the following companies which serve about 5,207 subscribers, to the Bell Telephone Company of Canada:

The Ingersoll Telephone Company Limited
The Urban and Rural Telephone Company Limited

A telephone system to be known as The Township of Calvert Municipal Telephone System has been established under Part II of The Telephone Act for the purpose of acquiring and rehabilitating the plant of The Ansonville Telephone Company Limited.

A telephone system to be known as The Amherst Island Municipal Telephone System has been established under Part II of The Telephone Act for the purpose of acquiring and rehabilitating that portion of the H. Perry Telephone System located on Amherst Island.

There are ten systems owned and operated by municipalities under the provisions of Part I of "The Telephone Act," viz.: the Cities of Fort William and Port Arthur, the Towns of Cochrane, Dryden, Fort Frances, Kenora, Keewatin and Rainy River, and the Townships of Alberton and Caledon.

One hundred and sixteen systems are now established and operating under Part II of "The Telephone Act" and furnishing service in about three hundred and fifty towns, villages and townships.

There are fifty-four systems owned and operated by individuals or partnerships of less than five persons, three hundred and four by Incorporated Companies, six by Incorporated Companies other than Telephone Companies, and seven by Federal and Provincial Departments and Commissions.

In addition to the before-mentioned systems, the Forestry Branch of the Department of Lands and Forests is operating an extensive system in connection with its work of fire prevention. This system comprises 926 telephone stations, 2,597 miles of pole lead, 673 miles of tree line and 7,328 miles of wire, the total investment being $440,188.00.

Detailed statistics and other information relative to these systems will be found in the appendix to "Telephone Systems 1952."

Jas. A. McDonald,
Supervisor of Telephone Systems.

MEMORANDUM OF LEGISLATION

EXCLUSIVE OF SPECIAL ACTS, UNDER WHICH THE ONTARIO MUNICIPAL BOARD EXERCISES JURISDICTION

Amalgamations and Annexations: *The Municipal Act* (R.S.O. 1950, C. 243), s. 20.

Applications may be made to the Board for the amalgamation of a municipality with any other municipality or municipalities or annexation of the whole or any part or parts of a municipality or part or parts of any unorganized township or townships to a municipality.

If an objection is filed pursuant to s.s. (15) and (16) and not withdrawn, any Order of annexation or amalgamation shall not take effect only when confirmed by an Act of the Legislature.

Arbitrations:

Reference may be made to the Board for the fixing of the amount of compensation to be paid to property owners for lands and rights-of-way expropriated under:

The Power Commission Act (R.S.O. 1950, C. 281), s. 32.

The Public Works Act (R.S.O. 1950, C. 323), s. 28.

The Highway Improvement Act (R.S.O. 1950, C. 166), s. 91 and 92.

Section 92 provides for the approval of the closing, by the Department of Highways, of certain County, Township or other roads which intersect or run into a controlled access highway.

The Ontario Municipal Board Act (R.S.O. 1950, C. 262), s. 40 (2).

An expropriating body may elect that the claims for compensation for lands taken or injuriously affected shall be heard and determined by the Ontario Municipal Board.

The Municipal Act (R.S.O. 1950, C. 243), s. 359.

A Council may, by by-law, designate the Ontario Municipal Board as sole arbitrator.

The Grand River Conservation Act (O.S. 1938, C. 15), s. 15.

The Board is appointed to hear appeals from the findings of the Board of Engineers as to the compensation to be paid to owners for lands expropriated; also appeals from the Board of Engineers as to the amounts to be contributed by the separate municipalities toward the cost of the work.

The Assessment Act (R.S.O. 1950, C. 24), s. 80.

The Board may hear an appeal either from the decision of the County Judge or directly from the Court of Revision, by any Municipal Corporation, the assessor or assessment commissioner, or any person assessed.

Equalization: County Assessment (R.S.O. 1950, C. 24), s. 89 (5).

The Conservation Authorities Act (R.S.O. 1950, C. 62), s. 22 and s. 25.

The Board has authority to hear appeals for the fixing of compensation for lands expropriated or injuriously affected.

The Beach Protection Act (R.S.O. 1950, C. 32), s. 9.

The Beaches and River Beds Act (R.S.O. 1950, C. 33).

Gravel may be taken from shores or streams, if approval therefor is given by the Board.

Bridges: *The Municipal Act* (R.S.O. 1950, C. 243), s. 453 (10).

The Ontario Municipal Board may grant relief from the rebuilding of a bridge.

Section 457—Debentures may be issued for re-flooring of a bridge with the approval of the Ontario Municipal Board, without a vote of the ratepayers.

Capital Expenditures:

The Ontario Municipal Board Act (R.S.O. 1950, C. 262), s. 67.

A municipality shall not proceed with or authorize any works or provide any monies for any undertaking, the cost of which is to be provided for by the issue of debentures until the approval of the Ontario Municipal Board has been obtained.

In addition, the approval of the Board is required for expenditures which are to be raised in a subsequent year or years without an issue of debentures. Generally in this regard the term for repayment is confined to not more than three years.

Cemeteries: *The Cemeteries Act* (R.S.O. 1950, C. 46), s. 49 and 50.

A municipality may with the approval of the Ontario Municipal Board incorporate additional lands for cemeteries and close road allowances.

Closing of Roads: *The Highway Improvement Act* (R.S.O. 1950, C. 166), s. 92.

The approval of the Ontario Municipal Board is required before the Department of Highways may close any County, Township or other road which intersects or runs into a controlled access highway.

County Boundary Road, s. 29.

Where there is a disagreement between two or more municipalities in respect to a bridge or highway on a boundary line between counties, the matter shall be decided by the Ontario Municipal Board.

The Damage by Fumes Arbitration Act (R.S.O. 1950, C. 87) s. 5.

An appeal may be made to this Board from the Award of the Arbitrator, fixing the damages to properties occasioned by sulphur fumes arising from the smelting or roasting of nickel-copper ore.

Debentures expressed in Sterling: *The Municipal Act* (R.S.O. 1950, C. 243), s. 299.

Approval of Board required.

Detachment of Farms Lands: *The Municipal Act* (R.S.O. 1950, C. 243), s. 18.

The Board may hear and determine any application for the detachment of Farms Lands from any municipality.

Dissolution of Corporation: *The Municipal Act* (R.S.O. 1950, C. 243), s. 47.

Upon the application of any municipality, the Board may dissolve the municipality after a public hearing.

The Ditches and Watercourses Act (R.S.O. 1950, C. 105), s. 15 (6).

Approval of specifications or plans for drainage of lands where required.

Extension of Debenture Issue Period Under Money By-Law: (R.S.O. 1950, C. 243), s. 298 (9) (10).

The Board may, upon the application of any municipality, extend the term for a debenture issue.

Extension of Public Utilities: *The Municipal Act* (R.S.O. 1950, C. 243), paragraph 66.

The Board may approve of a By-law providing for expenditures, without the assent of the electors if passed by a three-fourths vote of all members of the municipal council.

Extension of Time to Pass Money By-Laws: *The Municipal Act* (R.S.O. 1950, C. 243), s. 290 (5).

Upon an application of a municipal council, the Board may extend the time for the passing of a by-law beyond the six weeks' period required by s.s. (1).

The Federal District Commission Act: (R.S.O. 1950, C. 133), s. 1.

The Councils of Ottawa, Carleton, Russell and any municipality in either of the said Counties, may, with the approval of the Municipal Board, convey to the Federal District Commission any Highway, etc., vested in the municipality upon such terms and subject to such conditions as may be agreed upon.

The Fire Departments Act: (R.S.O. 1950, C. 138), s. 16, Re-Enacted O.S. 1950, C. 21, s. 6.

Reference may be made to the Board:

Under s.s. (1) by Department of Municipal Affairs if not satisfied that statement of a municipal treasurer in respect to a claim for a grant is correct;

Under s.s. (2) by council of a municipality if not satisfied with the certificate of the Fire Marshal as to whether fire apparatus or fire-fighting equipment has met the prescribed standards.

Floating Indebtedness: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262, s. 56 (c).

The Board is given power to allow a municipality to issue debentures to cover a floating indebtedness.

Franchise, Granting of: *The Municipal Franchises Act* (R.S.O. 1950, C. 249), s. 4, 6 and 8.

A franchise for the construction of a railway, gas, heat or light utility shall not be granted by a municipality without the approval of the Board, after a hearing.

Fuel and Food: *The Municipal Act* (R.S.O. 1950, C. 243), s. 388 (61).

By-laws of municipalities may be passed for buying, storing and selling of fuel and food and providing the money therefor, with the approval of the Board.

Highways: *The Municipal Act* (R.S.O. 1950, C. 243), s. 441.

A county may abandon a Highway with the approval of the Board.

Under Section 466, a County may apply to the Board for determination of a dispute with adjoining County relative to deviation of boundary road location, use of existing highway in lieu thereof, and proportion of cost.

The Municipal Act (R.S.O. 1950, C. 243), s. 350.

The Board may appoint one of three arbitrators for the fixing of compensation payable in respect to street widening.

The Municipal Act (R.S.O. 1950, C. 243), s. 476 (2).

A Municipality may with the approval of the Board open or establish a highway of less width than 66 feet.

The Highway Improvement Act (R.S.O. 1950, C. 166), s. 91.

The Board may hear applications for the fixing of compensation to be paid by the Department of Highways to owners of lands expropriated by the Department of Highways, if required either by the Minister of Highways or by the owner.

Pursuant to Section 92 of the same Act, the Board must approve of the closing of a road which in an *access* to a King's Highway.

Improvement District: *The Municipal Act* (R.S.O. 1950, C. 243), s. 43.

The Board may incorporate a locality into an Improvement District which, under section 44, shall be subject to part III of the *Department of Municipal Affairs Act.*

Increased Borrowings by Municipal Councils: *The Municipal Act,* (R.S.O. 1950, C. 243), s. 341 (2).

Provides, with the approval of the Board, for an increase in the amount to be borrowed by a municipal council in any one year, to meet current expenses until taxes are collected.

Incorporation of Towns in Unorganized Territory: *The Municipal Act* (R.S.O. 1950, C. 243), s. 16. (See s. 404.)

Subject to subsection (2) of section 13 of the same Act.

Interest Decrease or Increase on Municipal Debentures: *The Municipal Act* (R.S.O. 1950, C. 243), s. 303.

Provides for a decrease or increase in the rate of interest on municipal debentures, with the Board's approval.

Interurban Administrative Areas: *The Municipal Act* (R.S.O. 1950, C. 243), s. 22.

It is necessary for a municipality to secure the approval of the Board to enlarge, reduce, or dissolve any existing fire, police, sewage, water, transportation, local improvement or street lighting area or any other area created for any municipal purpose or to amalgamate any such area with any other area of a similar nature.

Land Subdivision Plans: (R.S.O. 1950, C. 277), s. 15a and 29.

Where owners of lands, interested municipalities and Department of Planning and Development are not in agreement, the Minister may—and on application shall—refer the application to the Board for its decision.

Licence Fee for Bicycles: *The Municipal Act* (R.S.O. 1950, C. 243), s. 388 (1), para. 109.

The fixing of an annual fee for the operation of bicycles in municipalities by residents thereof must be approved by the Board.

The Local Improvement Act: (R.S.O. 1950, C. 215).

Section 6: Hearing by the Board, of objectors against widening or extension of a street, or construction of a bridge.

Section 8: Approval of the Board, of Construction By-laws for local improvements.

Section 10 (2): Where petitions are filed against a local improvement work, such objections may be considered by the Board.

Section 18: A portion of the work may be abandoned, with the approval of the Board.

Section 19: Approval of the Board is required to the deviation in the course or location of a local improvement.

Section 26 (2): Approval of the Board is required to the passing of a By-law for the widening of street pavement, without petition.

Section 27 (3): The Board may fix the apportionment of the cost of widening or diversion of a highway.

Section 29 (3): Approval by the Board of a By-law for the opening, etc., of lanes is required.

Section 29 (3): Provides for a hearing by the Board, of claims for exemption from assessment for the opening, etc., of lanes.

Section 65: A local improvement area, may with the Board's approval be enlarged, reduced, altered, dissolved or amalgamated with any other such area.

Ontario Municipalities Fund: *The Municipal Act* (R.S.O. 1950, C. 243), s. 329.

Disposition of monies held by a Council in the Ontario Municipalities Fund for education purposes requires the approval of the Board.

Parks: (R.S.O. 1950), C. 314), s. 12 (6).

Approval is necessary to By-laws setting aside a part of a park for athletic purposes.

Public Utilities Act (R.S.O. 1950, C. 32), s. 37, (5).

Power is given to a municipality, with the approval of the Board for disposing of properties purchased for the Public Utilities Commission and not required for public utilities.

Public Health Act (R.S.O. 1950, C. 306), s. 106, (12) to (20).

Provides for an application to the Municipal Board for an Order prescribing the manner in which a sewerage project shall be carried on. The Board has power to stop up and close highways, impose such terms and conditions as may seem just, and remove restrictions where necessary, and fix compensation to be paid.

Section 110: The Board's approval is required to a debenture issue to provide for the cost of investigation and report as to the best method of sewage treatment and disposal suited to the needs of a municipality.

Quieting Orders: (R.S.O. 1950, C. 245).

Under this legislation, the Board, on the application of a municipal council, may issue an Order establishing the legal existence and corporate status of a municipality, and its proper area and boundaries, in order to quiet doubts respecting the same.

Railways: (R.S.O. 1950, C. 331).

Redemption of Debentures: *The Municipal Act* (R.S.O. 1950, C. 243), s. 298 (13) (d).

Approval of the manner of giving notice of redemption.

Repeal of Money By-laws as to Residue not Required: *The Municipal Act* (R.S.O. 1950, C. 243), s. 304 (2).

Restricted Areas: *The Municipal Act* (R.S.O. 1950, C. 243), s. 390.

By-laws of municipalities prohibiting the use of land and the erection and use of buildings for certain purposes, and regulating the cost and the type of construction thereof, shall not come into force until the approval of the Board is granted.

By subsection (17) the Board may hear an appeal by an applicant for an amendment to a Restricted Area By-law, when the Council has neglected or refused to act.

Retirement of Unmatured Debentures: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262).

The Board has power to approve of the issue of debentures, without the assent of the electors, for the purpose of retiring debentures which are redeemable before maturity.

Sewage and Sewage Disposal Works: *The Public Health Act* (R.S.O. 1950, C. 306), s. 106.

Subsection (12) provides for the stopping up of a highway for the purpose of sewage system, with the approval of the Board, upon an application made to it for such purpose, and imposing terms and conditions.

Sewer Benefit: *The Municipal Act* (R.S.O. 1950, C. 243), s. 389 (2).

Approval of imposition of rate therefor.

Sinking Funds: *The Municipal Act* (R.S.O. 1950, C. 243), s. 325.

Approval of the Board is necessary to the purchase of its own debentures by a municipality for its Sinking Fund. The amount so invested is limited to 25% of the total fund.

Section 318: The use of surplus in Sinking Fund, where there is sufficient to take care of all the debentures, requires the Board's approval.

Section 319: Authority is given to a municipality, with the approval of the Board, to dispense with a further levy where the amount in the Sinking Fund is sufficient to take care of the debentures.

Smoke Abatement: *The Municipal Act* (R.S.O. 1950, C. 243), s. 399, amended 1951, C. 53, s. 20 (1).

Provides for an appeal to Board from a decision of a smoke board.

Suburban Area Development Act: (R.S.O. 1950, C. 377), s. 6 (repealed O.S. 1952, C. 101).

See s. 21 of *The Municipal Act* (R.S.O. 1950, C. 243).

On application to the Board an existing suburban board may be dissolved.

Supervision of Municipalities: *The Department of Municipal Affairs Act* (R.S.O. 1950, C. 96), Part. III.

Tariff of Board's Fees: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 102.

The fixing by the Board of a tariff of fees to be collected by the Board for the performance of its duties.

Tax Rate: *The Municipal Act* (R.S.O. 1950, C. 243), s. 308, s.s. (2).

A municipality may levy a sum greater than 2½% on the dollar of the assessed value of properties, with the approval of the Board.

The Telephone Act: (R.S.O. 1950, C. 387).

Provides for the Board's jurisdiction over municipal and other telephones within the Province.

Towns Erected into Cities: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a town having a population of not less than 15,000 into a City, and declare the name which it is to bear.

Township Separation: *The Municipal Act* (R.S.O. 1950, C. 243), s. 28.

Separation by the Municipal Board, of a junior Township in unorganized territory from a union of Townships.

Townships Erected into Cities: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a township having a population of not less than 25,000 into a City, and declare the name which it is to bear.

Townships, Incorporation of: *The Municipal Act* (R.S.O. 1950, C. 243), s. 23.

Townships, Unorganized: *The Municipal Act* (R.S.O. 1950, C. 243), s. 404.

Passing of By-laws by the Council of a Township in an unorganized territory having a population of not less than 5,000, and which has been declared by the Order of the Municipal Board to be a Township, and the erection of such Township or part of it into a Town.

Validation of Debenture By-laws: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 61.

Authority to validate debenture By-laws and to certify debentures to be issued thereunder. After the issue of the validation Order, the By-law is binding upon the Corporation and its validity may not be contested or questioned for any cause whatsoever.

Villages Erected into Towns: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a Village having a population of not less than 2,000 into a Town, and declare the name which it is to bear.

Villages, Police: *The Municipal Act* (R.S.O. 1950, C. 243), s. 498 (3).

Approval of formation of Police Villages—where County Council does not act.

The Municipal Act (R.S.O. 1950, C. 243), s. 499 (4).

Extension of the boundaries of Police Villages—where County Council does not act.

Vote of Electors: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 66.

The Board may, where the assent of the electors qualified to vote on Money By-laws is required, dispense with the vote of the rate-payers after due enquiry, providing that a public hearing is held.

Wards, Division of Cities, Etc., into: *The Municipal Act* (R.S.O. 1950, C. 243), s. 42.

The division or re-division of Cities and Towns into Wards, with the approval of the Municipal Board.

Water Rates, Fixing of: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 56 (i) (j).

The determination by the Board of the application by any municipality to confirm, vary, or fix rates charged or to be charged in connection with the water supplied thereto by any other municipality.

Weigh Scales, and Weighing of Coal: *The Municipal Act* (R.S.O. 1950, C. 243), s. 392 (11).

With the approval of the Municipal Board, and within the limitations, restrictions, and under the conditions prescribed by an Order of the Board, By-laws may be passed by urban municipalities and townships of a population of 100,000 up as to the weighing of coal and coke.

Works Ordered by the Dominion Railway Board and the Ontario Municipal Board: *The Municipal Act* (R.S.O. 1950, C. 243), s. 300 (3) (g).

Approval of the borrowing of money by a municipality for works ordered by either of these Boards.

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In addition there is much legislation which comes before the Private Bills Committee, referring particularly to the municipalities asking for such legislation, in which certain matters are referred to the Board for approval.

THE ONTARIO MUNICIPAL BOARD

TARIFF OF FEES

payable on application of Appointment for Hearing

Prescribed Pursuant to R.S.O. 1950, Chapter 262, Section 102

THE ONTARIO MUNICIPAL BOARD ACT

(R.S.O. 1950, C. 262)

SECTION 66: Dispensation of Vote of Electors	$25.00
SECTION 67: Capital Expenditures:	
Approval of Undertaking:	
On any amount up to $5,000—Minimum Fee	$ 5.00
EXCEPT where work initiated under SECTION 8 of The Local Improvement Act—Minimum Fee	$10.00
Otherwise:	
Per $1,000—or fraction thereof (up to and including $1,000,000)	$ 1.00
Per $1,000—(on excess over $1,000,000 up to and including $3,000,000)	$ .50
Per $1,000—(on excess over $3,000,000 up to and including $5,000,000)	$ .25
Per $1,000—(on excess over $5,000,000)	$ .10
Municipal Drains:	
Special Tariff:	
Per $1,000	$ 1.00
(Maximum Fee)	$10.00
SECTION 61: Validation of By-laws and Certification of Debentures:	
Per $1,000—(up to and including $50,000)	$ 1.00
Per $1,000—(on portion in excess of $50,000)	$ .50

THE ASSESSMENT ACT

(R.S.O. 1950, C. 24)

SECTION 80: Appeals from Court of Revision or County Judge	$25.00

THE LOCAL IMPROVEMENT ACT

(R.S.O. 1950, C. 215)

SECTION 8: Public Hearing	$15.00
Approval of Passing of By-law where Approval of Capital Expenditure not involved	$10.00
SECTION 18: Abandonment of part of local improvement work	$ 5.00
SECTION 27 (3): Apportionment of cost of local improvement work	$ 5.00
SECTION 29 (3): Opening, Widening, Extension, Grading or Paving of Lane—(where Public Hearing NOT Required)	$ 5.00

THE MUNICIPAL ACT

(R.S.O. 1950, C. 243, and amendments)

SECTION 20: Annexation or amalgamation—on Appointment for Hearing	$25.00
SECTION 21: Alteration of Areas	$10.00
SECTION 290 (5): Extension of time to pass By-law	$ 5.00
SECTION 298 (9) (10): Extension of debenture issue period	$ 5.00
SECTION 298 (13) (d): Manner of giving notice of redemption of debentures	$ 5.00
SECTION 299 (3): Approval to issue of debentures expressed and payable in sterling	$10.00
SECTION 300 (3) (f): Bridge construction	$ 5.00
SECTION 300 (3) (f): Work ordered by Board of Transport for Canada or The Ontario Municipal Board	$10.00
SECTION 303: Change in interest rate	$ 5.00
SECTION 304 (2): Repeal of amount not required	$ 5.00
SECTION 308 (2): Approval of further levy where tax rate in excess of 25 mills	$ 5.00
SECTIONS 318, 319 and 320: Sinking fund surplus, application of	$10.00
SECTION 325: Sinking fund investment	$ 5.00
SECTION 341 (2): Increased borrowings by municipal council	$10.00
SECTION 388 (1) par 61: Purchase and storage of food and fuel by Municipality	$ 5.00
SECTION 388 (1) par 66: Extension of waterworks and Electrical systems, etc.	$10.00
SECTION 388 (1) par 109: Fixing of fee by Municipality of fee for bicycle licences	$ 5.00
SECTION 390: Restricted Areas	$10.00
SECTION 476 (2): By-law for laying out highway less than 66 feet	$ 5.00

SPECIAL LEGISLATION

Approval of By-laws	$10.00

THE PLANNING ACT

(R.S.O. 1950, C. 277)

SECTION 15 (a) and Reference Under	$10.00
SECTION 29: Hearing	$25.00

THE RAILWAY ACT

(R.S.O. 1950, C. 331)

APPROVAL OF:

Plan	$ 5.00
Fenders	$ 5.00
Company's Public By-laws and Rules	$ 2.00
Company's Tolls and Tariffs	$ 2.00
Company's Examiner of Motormen	$ 1.00

CONTENTIOUS MATTERS

In contentious matters, including Arbitrations or References to the Board under the Public General Acts of Ontario requiring a Hearing, there shall be paid upon the Application the sum of $25.00

In addition thereto, at the conclusion of the hearing, there may be directed to be paid such further sum as may be determined by the Board.

COPIES OF MAPS OR PLANS, ETC.

For a Copy of any document, 10c. for each 100 words, and 50c. for each Certificate.

For Copy of any Map or Plan, applicants are to pay Draughtsman's and Engineer's Fees for same and 50c. for each Certificate.

ON APPLICATIONS not included in the above-mentioned list, such sum or sums as the Board may order or direct.

THE ONTARIO MUNICIPAL BOARD ACT

(R.S.O. 1950, C. 262)

Issue of Debentures to Retire Debentures which are Redeemable before Maturity

APPROVAL:	*Sections 56 (d) and 67*
Per $1,000—(up to $500,000)	$1.00
Per $1,000—($500,000 to $1,000,000)	$ .50
Per $1,000—($1,000,000 to $1,500,000)	$ .25
Per $1,000—(over $1,500,000)	$ .10
VALIDATION:	*Section 61*
Per $1,000—(up to $50,000)	$1.00
Per $1,000—($50,000 to $500,000)	$ .50
Per $1,000—($500,000 to $1,000,000)	$ .25
Per $1,000—($1,000,000 to $1,500,000)	$ .12½
Per $1,000—(over $1,500,000)	$ .05

TABULATION OF ASSETS AND LIABILITIES AS OF DECEMBER 31st, 1951

Name of Railway	Authorized Capital Stock	Cost of Railway, Equipment, Land and Buildings	Cash and Other Assets	Deficit	Capital Stock Outstanding	Funded Debt and Real Estate	Current Liabilities	Accrued Liabilities, Sinking and Other Special Funds	Surplus
Cornwall Street Railway Light and Power Company Limited	$200,000,00	$2,623,356.55	$237,177.94	.....	$200,000.00	$1,580,000.00	$115,752.44	$870,682.86	$94,099.19
Hamilton Street Railway Company	4,000,000.00	4,346,035.00	276,995.00	$332,384.00	4,000,000.00	2,374,014.00	614,302.00	1,567,098.00	.....
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mattagami Railroad Company	1,000,000.00	287,484.43	110,346.48	.....	250,000.00	.....	1,971.39	145,859.52	.....
Niagara Peninsular Railway Company	200,000.00	42,437.68	50,114.53	.....	50,000.00	.....	.....	.....	42,552.21
Port Arthur Civic Railway	Complete change over to motor buses								
Public Utilities Commission of Kitchener	.....	1,425,922.60	112,459.71	92,625.00	.....	440,400.00	630,598.81	908,709.75	.....
Sandwich, Windsor & Amherstburg	.....	3,973,746.88	1,496,051.69	141,565.67	.....	3,400,000.00	121,763.49	2,089,600.75	.....
Southern Algoma Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sudbury-Copper Cliff Suburban Electrical Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....
Thurlow Railway Company	50,000.00	59,401.42	.....	12,125.95	25,000.00	.....	46,527.39	.....	.....
Tillson Spur Line Railway Company	20,000.00	.....	.....	.....	200.00	All rolling stock owned by C.N.R.			
Toronto Transportation Commission	Mun. owned	103,698,147.45	22,541,486.41	.....	Mun. owned	35,266,550.00	6,359,777.08	79,112,740.65	5,500,566.13
Toronto Transportation Commission—Township of York and Weston Railway	Mun. owned	1,448,935.44	1,000,580.51	.....	Mun. owned	59,400.00	.....	831,955.63	1,558,160.32
Toronto Transportation Commission—North Yonge Railway	Change over to buses								

TABULATION OF CHARGES OTHER THAN OPERATING COSTS FOR YEAR ENDING DECEMBER 31st, 1951

Name of Railway	Interest on Funded Debt	Interest or Discount on Unfunded Debt	Taxes	Transfer to Special Accounts	All Charges Other than Operating Costs	Total Expenditures Including Operating Costs	Total Expenditures Excluding Operating Costs	Total Revenue from all Sources	Net Deficit from Year's Operation	Net Surplus from Year's Operation
Cornwall Street Railway Light and Power Company Limited	$73,425.51	Nil	$13,434.17	$93,702.32	$182,091.21	$503,325.42	$88,388.89	$602,344.10	$5,861.32	Nil
Hamilton Street Railway Company	73,033.00	Nil	187,977.00	Nil	897,576.00	3,537,863.00	897,576.00	3,677,549.00	387,945.00	Nil
Huntsville and Lake of Bays Railway Company										
Mattagami Railroad Company	Nil	Nil	148.13	8,462.61	10,577.14	59,000.41	7,114.53	68,331.14	Nil	Nil
Niagara Peninsular Railway Company	Nil	Nil	Nil	Nil	Nil	25,513.00	Nil	27,103.50	Nil	1,590.50
Ontario Northland Railway	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Port Arthur Civic Railway					Change over to buses					
The Public Utilities Commission of Kitchener			1,316.12	50,728.37	123,982.07	905,396.31	1,316.12	862,203.58	926.25	
Sandwich, Windsor and Amherstburg Railway Company	175,125.00	Nil	26,982.18	297,537.00	619,644.18	3,048,592.76	584,163.71	3,052,746.17	Nil	6,914.67
Southern Algoma Railway					Did not operate					
Sudbury-Copper Cliff Suburban Electric Railway					Did not operate					
Thurlow Railway Company	Nil	Nil	Nil	Nil	Nil	47,615.21	Nil	50,901.00	Nil	3,285.79
Tillson Spur Line Railway Company	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Toronto Transportation Commission	428,928.40	Nil	966,875.23	3,154,989.03	4,786,747.68	29,985,603.26	4,786,747.68	28,746,058.32	1,239,544.94	
Toronto Transportation Commission—Township of York and Weston Railway	Nil	Nil	Nil	Nil	Nil	574,292.52	Nil	695,369.30	Nil	121,076.78
Toronto Transportation Commission—North Yonge Railway						Buses				

TABULATION OF OPERATING COSTS FOR YEAR ENDING DECEMBER 31st, 1951

Name of Railway	General Expenditures	Maintenance of Roadbed and Buildings	Maintenance of Equipment	Motive Power	Wages	Damage to Persons and Property	Miscellaneous	Total
Cornwall Street Railway Light and Power Company Limited	$62,247.25	$34,937.50	$96,060.65	$37,420.73	$161,256.98	$4,655.60	$18,503.07	$415,081.78
Hamilton Street Railway Company	553,750.00	131,681.00	519,024.00	54,560.00	953,506.00	15,532.00	412,254.00	2,640,287.00
Huntsville and Lake of Bays Railway Company								
Mattagami Railroad Company	17,268.51	14,652.70	2,689.34	Nil	16,015.73	Nil	6,319.54	56,945.88
Niagara Peninsular Railway Company	90.00	10,716.57	6,735.48	Nil	6,785.30	Nil	1,185.65	25,513.00
Ontario Northland Railway								
Port Arthur Civic Railway	98,951.42	2,515.23	323,981.93	21,525.89	300,698.56	3,903.81	29,837.40	781,414.24
The Public Utilities Commission of Kitchener								
Southern Algoma Railway								
Sudbury-Copper Cliff Suburban Electric Railway								
Thurlow Railway Company	90.00	24,022.49	7,915.78	Nil	11,737.56	Nil	3,849.38	47,615.21
Tillson Spur Line Railway Company								
Toronto Transportation Commission	1,968.419.50	1,356.683.67	2,377,739.45	1,623,714.62	8,765,579.07	472,117.91	8,634,601.36	25,198,855.58
Toronto Transportation Commission—Township of York and Weston Railway	36,409.70	19,185.76	34,918.22	193,657.23		181,239.66	108,881.95	574,292.52
Toronto Transportation Commission—North Yonge Railway								

	Maintenance of Plant and Equipment	Operating and Garage Expenses	Transportation Expenses	Traffic Promotion	Administrative and General Expenses			
Sandwich, Windsor and Amherstburg	$496,344.22	$542,735.94	$1,085,374.84	$2,401.67	$302,091.91			$2,428,948.58

TABULATION OF COMPARISON WITH PREVIOUS YEAR AS TO CAR MILES RUN, PASSENGERS CARRIED, ETC.
Year Ending Dec. 31st, 1951

Name of Railway	Length of Track (Miles)		Car Miles Run		Passengers Carried		Accidents				Net Earnings	
							Killed		Injured			
	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease
Cornwall Street Railway Light and Power Company Limited	Nil	Nil	11,529			225,697	Nil	Nil	Nil	Nil		$12,544.96
Hamilton Street Railway Company				356,352	162,420		4		73		$124,339.00	
Huntsville and Lake of Bays Railway Company	Nil	Nil	3,362			107	Nil	Nil	Nil	Nil		3,497.60
Mattagami Railroad Company	Nil	Nil	Nil	Nil								
Niagara Peninsular Railway Company	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	346.77	
Ontario Northland Railway												
Port Arthur Civic Railway												
The Public Utilities Commission of Kitchener	Nil	Nil	Nil	Nil	No return in 1950							
Sandwich, Windsor and Amherstburg Railway Company	Nil	Nil		74,319		3,455,606	Nil	Nil	Nil	Nil	62,631.63	
Southern Algoma Railway												
Sudbury-Copper Cliff Suburban Electric Railway												
Thurlow Railway Company												
Tillson Spur Line Railway Company	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Toronto Transportation Commission		2,161		342,188		7,983.066		10		81	267,419.33	
Toronto Transportation Commission—Township of York and Weston Railway	Nil	Nil		18,314		155,843	Nil	Nil	4			28,094.91
Toronto Transportation Commission—North Yonge Railway												

ANALYSIS OF GROSS EARNINGS AND MISCELLANEOUS INCOME FOR YEAR ENDING DECEMBER 31st, 1951

Name of Railway	From Passengers	From Mail	From Express Parcels and Newspapers	From Freight	From Rental of Track, Buildings and Other Property	From Advertising	From Other Miscellaneous Sources	Total
Cornwall Street Railway Light and Power Company Limited	$286,232.66	Nil	.....	$196,186.31	$202.00	$1,712.12	$118,011.01	$602,344.10
Hamilton Street Railway Company	3,120,386.00	$10,462.00	Nil	Nil	.....	14,542.00	13,528.00	3,158,918.00
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	.....
Mattagami Railway Company	638.14	Nil	$1,909.35	32,987.28	Nil	Nil	32,796.37	68,331.14
Niagara Peninsular Railway Company	Nil	Nil	Nil	27,103.50	Nil	Nil	Nil	27,103.50
Port Arthur Civic Railway	.....	.....	.....	.....	.....	.....	.....	.....
The Public Utilities Commission of Kitchener	843,015.20	Nil	295,000.00	Nil	350.00	13,519.69	18,636.74	862,203.58
Sandwich, Windsor and Amherstburg Railway Company	3,006,361.13	Nil	3,328.84	Nil	7,573.03	25,421.08	250.00	3,042,934.08
Southern Algoma Railway Company	.....	.....	.....	.....	.....	.....	.....	.....
Sudbury-Copper Cliff Suburban Electric Railway	.....	.....	.....	.....	.....	.....	.....	.....
Thurlow Railway Company	Nil	Nil	.....	50,901.00	Nil	Nil	Nil	50,901.00
Tillson Spur Line Railway Company	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Toronto Transportation Commission	27,417,689.19	115.92	52,613.43	Nil	340,613.72	258,519.49	370,087.87	28,439,639.62
Toronto Transportation Commission—Township of York and Weston Railway	687,755.79	Nil	Nil	Nil	Nil	5,390.54	2,222.97	695,369.30
Toronto Transportation Commission—North Yonge Railway	.....	.....	.....	.....	.....	.....	.....	.....

ELECTRIC AND STEAM RAILWAYS UNDER PROVINCIAL JURISDICTION, YEAR ENDING DECEMBER 31st, 1951

Name of Railway	Length of Road First Main Track (Miles)	Length of Road Second Main Track (Miles)	Total Main Track (Miles)	Length of sidings and Turn-outs (Miles)	Total Computed as Single Track (Miles)	Length under Construction (Miles)	No. of Power Houses		Remarks
							Steam	Water	
Cornwall Street Railway Light and Power Company Limited	3.	Nil	3.	7.	20.	Nil	.....	.....	Power purchased.
Hamilton Street Railway Company	No longer applicable		.....	.....	.....	.....	.....	.....	Power purchased.
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	.....	
Mattagami Railroad Company	3.000	Nil	3.000	3.947	6.947	Nil	.....	.....	
Niagara Peninsular Railway Company	3.325	Nil	3.325	2.115	5.440	Nil	.....	.....	
Ontario Northland Railway	.....	.....	.....	.....	.....	.....	.....	.....	
Port Arthur Civic Railway	.....	.....	.....	.....	.....	.....	.....	.....	
The Public Utilities Commission of Kitchener	Track removed								
Sandwich, Windsor and Amherstburg Railway Company	Track removed								
Southern Algoma Railway	.....	.....	.....	.....	.....	.....	.....	.....	
Sudbury-Copper Cliff Suburban Electric Railway	.....	.....	.....	.....	.....	.....	.....	.....	
Thurlow Railway Company	2.671	Nil	2.671	4.666	7.337	.....	.....	.....	
Tillson Spur Line Railway Company	1.010	Nil	1.010	0.51	1.061	.....	.....	.....	
Toronto Transportation Commission	105.126	96.103	202.229	24.655	226.84	.....	.....	.....	Power purchased from Toronto Hydro Electric System
Toronto Transportation Commission—Township of York and Weston Railway	6.268	5.868	12.136	3.521	8.165	.....	.....	.....	Purchased from T.T.C.
Toronto Transportation Commission—North Yonge Railway	.....	.....	.....	.....	.....	.....	.....	.....	

TABULATION OF CAR MILES RUN, PASSENGERS CARRIED, ACCIDENTS, ETC., FOR YEAR ENDING DECEMBER 31st, 1951

Name of Railway	Length of Track Miles Owned	Length of Switches and Sidings Miles	Passenger Car Miles Run	Passengers Carried	Passengers Carried per Mile of Main Track Operated	Accidents (Claims)		Number of men employed	Passenger Cars			Miscellaneous													
						Killed	Injured		Cars Enclosed	Cars Open	Trailers	Mail and Baggage	Box and Cattle	Platform	Dump and Coal	Tool	Snow Sweepers	Snow Plows	Loading Cranes	Locomotives	Buses and Trucks, etc.	Motor Cars	Gas Buses equipped with fenders	Miscellaneous
Cornwall Street Railway Light and Power Company Limited	20.	7.	742,231	4,687,162	234,353	Nil	Nil	100	34	Nil	Nil	Nil	Nil	1	Nil	Nil	3	2	Nil	5	Nil	....	7	16
Hamilton Street Railway Company.	No longer applicable		6,198,273	39,693,319	.....	4	456	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	163	6	.....	48
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mattagami Railroad Company	6.947	3.947	3,708	4,254	1,418	Nil	Nil	8	3	Nil	....	1	Nil	....	1	Nil	....	1	Nil	1	....	....	.....	2
Niagara Peninsular Railway Company	5.440	2.115	.....	.....	.....	.....	.....	8	119	....	....	....	....	2	112	....	....	....	....	5	....	....	.....	....
Ontario Northland Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Port Arthur Civic Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
The Public Utilities Commission of Kitchener	.....	.....	2,031,757	11,916,563	.....	1	18	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	44	.....	.....	16
Sandwich, Windsor and Amherstburg Railway Company	.....	.....	5,498,902	27,266,066	.....	Nil	Nil	438	206	....	....	.....	.....	.....	.....	.....	.....	6	.....	.....	193	6	.....	1
Southern Algoma Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sudbury-Copper Cliff Suburban Electric Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Thurlow Railway Company	7.337	4.666	.....	.....	.....	.....	.....	12	36	....	....	.....	.....	3	28	.....	.....	1	....	3	.....	.....	.....	1
Tillson Spur Line Railway Company	1.061	.051	Nil	Nil	Nil	....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Toronto Transportation Commission	226.884	24.655	51,047,615	324,031,240	.....	12	990	.....	1,078	....	105	....	....	....	....	....	....	11	23	....	....	939	.....	842
Toronto Transportation Commission—Twp. of York and Weston Railway	8.615	3.521	.....	14,476,121	1,187,742	....	41	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	.....	....
Toronto Transportation Commission—North Yonge Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

FORTY-SEVENTH ANNUAL REPORT

OF THE

ONTARIO MUNICIPAL BOARD

To December 31st, 1952

PRESENTED TO THE LEGISLATIVE ASSEMBLY
BY COMMAND

Re Forty-seventh Annual Report

Dear Sir:

I have the honour to send you herewith the Forty-Seventh Annual Report of the Ontario Municipal Board to December 31, 1952.

Your obedient servant,

(Sgd.) L. R. CUMMING,
Chairman.

THE HONOURABLE G. H. DUNBAR,
Minister of Municipal Affairs,
Parliament Buildings,
Toronto.

ORGANIZATION

of the

ONTARIO MUNICIPAL BOARD

of the

PROVINCE OF ONTARIO

1952

L. R. CUMMING, M.A.	*Chairman*
W. J. MOORE, O.L.S.	*Sr. Vice-Chairman*
R. C. ROWLAND	*Jr. Vice-Chairman*
R. H. YEATES	*Member*
G. A. LISTER	*Member*
R. L. KENNEDY	*Member*
C. W. YATES, Q.C.	*Member*
C. F. NUNN	*Member*
M. B. SANDERSON	*Secretary*
J. A. McDONALD	*Supervisor of Telephone Systems*

FORTY-SEVENTH ANNUAL REPORT

OF

The Ontario Municipal Board

for the Year 1952

The Ontario Municipal Board submits herewith its Forty-Seventh Annual Report pursuant to Section 103 of *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), as re-enacted by *The Ontario Municipal Board Amendment Act,* 1952.

I. 1952 LEGISLATION

During the year, as in most previous years, a number of statutory amendments affected the jurisdiction, powers and duties of the Board. A summary of the more important changes follows,—

THE ONTARIO MUNICIPAL BOARD AMENDMENT ACT, 1952

(O.S. 1952, C. 71)

By this amendment the Statute providing for the constitution of the Board and setting forth its general jurisdiction and powers was amended to clarify the law relating to voluntary applications for approval of municipal by-laws and to give the Board a wider discretionary power with respect to directions for the service of notices. At the same time the statutory provision for the making of its annual report was amended to conform with corresponding sections of other statutes.

THE MUNICIPAL TAX ASSISTANCE ACT, 1952

(O.S. 1952, C. 66)

This Act provided a new right of appeal to the Board from valuations of property of the Crown in right of Ontario, or provincial property owned or occupied by any Crown agency, which are made by the Department of Municipal Affairs for the purposes of the Act. The decision of the Board on such an appeal is final.

THE POWER COMMISSION AMENDMENT ACT, 1952, NO. 2

(O.S. 1952, C. 77)

A corresponding amendment of The Power Commission Act (R.S.O. 1950, C. 281) provided for an appeal to the Board against a valuation of property of the Commission made by the Department of Municipal Affairs, and made the decision of the Board on such an appeal final.

THE CONSERVATION AUTHORITIES AMENDMENT ACT, 1952

(O.S. 1952, C. 11)

Section 14 of the original Act was amended to provide that Conservation Authorities must now obtain the approval of the Board before embarking on a scheme. In addition, the Board is required to hear and determine all unsettled claims for injurious affection, whether arising from interference with drainage or otherwise.

THE HOUSING DEVELOPMENT AMENDMENT ACT, 1952

(O.S. 1952, C. 39)

This Act amended existing legislation by authorizing municipalities to expend or contribute monies for certain joint housing projects and to issue debentures therefor without the prior approval of either the electors or the Board.

THE PLANNING AMENDMENT ACT, 1952

(O.S. 1952, C. 75)

By this Act the Board was given a new power to determine the apportionment of the financial requirements of planning boards when the planning area comprised more than one municipality and one of the municipalities concerned was not satisfied with the apportionment proposed by the planning board. Another important section of the amending Act provided for a direct appeal to the Board from a decision of a Committee of Adjustment, in addition to the existing power to review any such decision referred to it by the Minister. The Act also required that the approval of the Board must be obtained to a by-law adopting a re-development plan for a re-development area, and permitted the Minister to refer to the Board any application for his approval of the sale of lands reserved for public purposes in new subdivisions or the expenditure of monies paid by the subdivider in lieu of the conveyance of such lands.

THE ST. LAWRENCE DEVELOPMENT ACT, 1952

(O.S. 1952, C. 100)

Attention should be drawn to this important legislation in view of the provisions which incorporated sections of the *The Public Works Act* and *The Power Commission Act* dealing with the fixing of compensation and requiring the Board to determine claims if required by the Hydro-Electric Power Commission of Ontario.

THE SUBURBAN DEVELOPMENT AREA REPEAL ACT, 1952

(O.S. 1952, C. 101)

Under this Statute the Board was given power, upon application, to dissolve suburban service boards established under the Act repealed by the new legislation.

II. APPLICATIONS TO THE BOARD

As is well known the Board's powers and duties now extend to a great variety of subjects and are contained in a large number of public general and special acts which have been enacted since the Board was established in 1906. The membership has been increased from time to time until there are now eight members, including the Chairman, devoting their full time to their duties. The jurisdiction of the Board can be exercised only when an application is made under the authority of an Act of the Legislature, and in every case the initial responsibility of the Board is to determine whether it has been given jurisdiction and power to grant the order or approval applied for.

A review of the number and the nature of the formal applications made to the Board during the year does not provide an entirely true picture of the work undertaken and accomplished. In many cases the Board is requested to confer with municipal officials and delegations, particularly with respect to financial problems in advance of a possible application for approval of a proposed capital expenditure, and the Board, without in any way denying the right of a municipality to make a formal application, is often able to give advice and assistance which is useful and may avoid unnecessary expense and delay. At the same time the Board attempts to avoid premature discussion of controversial questions which, of course, should be decided upon the basis of evidence and argument presented at a public hearing.

During the year the Board received 7,655 applications of all kinds and in respect of these, including applications pending at the beginning of the year, 4,094 separate Orders were issued not including decisions on applications for public vehicle and public commercial vehicle licences. A summary of the applications received, classified as to subject matter, follows:—

	Number
(1) Capital Expenditures	4,445
(2) Public Commercial Vehicle and Public Vehicle Licences	1,868
(3) Approval of Restricted Area By-laws and Amendments	461
(4) Under *The Telephone Act*	383
(5) Assessment Appeals	202
(6) *The Planning Act* (reference and appeals)	48
(7) Annexations and Amalgamations	26
(8) Arbitrations	26
(9) Miscellaneous	196
Total	7,655

CAPITAL EXPENDITURES

As indicated by the number of applications shown above, it is clear that the most important duty entrusted to the Board is the responsibility for approving or refusing to approve proposals for municipal capital expenditures, under Section 67 of *The Ontario Municipal Board Act*. Although the number of separate applications received in 1952 did not equal the number filed in the previous year, the total amount involved, approximately $150 million, almost equalled the total amount for 1951, indicating that demands for municipal capital projects requiring long term financing which had been accumulating

during the war and post-war period had not yet been satisfied. The following comparative table shows the number of these applications and the amount applied for during each of the past six years:

Year	*Number*	*Amount*
1947	1,900	$82,961,282.00
1948	3,477	87,858,171.00
1949	3,414	92,752,638.00
1950	5,154	151,526,612.00
1951	4,981	152,722,374.00
1952	4,445	149,326,674.00

In respect of these applications the Board issued 2,391 Orders of approval for expenditures totalling $105,540,108.54. A summary of the nature of the works thus approved and the estimated cost thereof will be found in the Appendix (List No. 1). It will be noted that the number of separate Orders bears no relationship to the total number of applications for the reason that in many cases a single Order includes a number of works described in separate applications.

COMMUNITY PLANNING AND ZONING

As in the previous years the Board was required to deal with an increasing number of applications for approval of municipal zoning and restricted area by-laws chiefly as a result of continued activity in the development of new residential, commercial and industrial areas in the rapidly growing urban and suburban municipalities. Every such by-law or amending by-law must be approved by the Board under Section 390 of the *Municipal Act,* (R.S.O. 1950, C. 243.) During 1952 the Board received 461 new applications for such approval in addition to pending applications not disposed of at the beginning of the year. There were 32 general zoning by-laws covering entire municipalities of which, following public hearing, 17 were approved without amendment and the remainder were granted approval after amendments directed by the Board. There were 99 by-laws affecting portions of municipalities of which 68 were approved without amendment, 29 after amendment and 2 were not approved. In addition there were 223 applications for approval of by-laws amending existing zoning or restricted area by-laws. Of these 200 were approved without amendment, 20 were approved after amendment and approval was refused for the remaining 3. Included in this group were 13 applications by property owners under the right of appeal set forth in subsection 17 of the section for amendments of existing by-laws which local council had neglected or refused to adopt.

Applications to the Board under this legislation are increasing yearly and the local by-laws submitted for approval besides being more complicated are usually controversial. The Board invariably conducts public hearings of these applications in the locality of the lands affected. A large number of the applications listed as incomplete at the end of the year had been heard and disposed of by the Board but the applicant municipalities had not yet taken out the necessary formal orders of approval.

There has also been a substantial increase in the number of references to the Board under *The Planning Act.* Under certain sections of this Act any interested person or the Minister of Planning and Development may require

a reference to the Board of any matter for which the approval or consent of the Minister is required, and the decision of the Board is final. During the year 6 applications were made under Section 15a, subsection (11), of which 3 were granted and 3 were dismissed. There were 13 applications under subsection (12) of this section of which 4 were granted and 9 dismissed. A total of 29 applications were made under Section 29 of which 11 were approved, 6 settled, 7 dismissed and the balance were carried forward for disposition in 1953. The number of applications listed under this heading does not indicate the amount of time, required to dispose of them for the reason that in most cases the issues brought before the Board were highly controversial and lengthy public hearings were required. An illustration was the decision of the Board in the case of *Township of Toronto vs. G. S. Shipp & Sons* reported in 1952 O.W.N. 775.

ANNEXATIONS AND AMALGAMATIONS

The continued growth of urban centres in the province was reflected in the number of applications of this type. There were 26 new applications for the annexation of additional lands pursuant to Section 20 of *The Municipal Act*. Public hearings were conducted in the applicant municipality and many of these hearings were continued for several days before the submissions of those approving or objecting to the proposal were complete. A list of the applications disposed of in 1952 will be found in List Number II of the Appendix.

ARBITRATIONS

The Board was required to determine in 26 applications during the year claims for compensation for lands expropriated or injuriously affected. The statutory jurisdiction invoked is indicated in the following lists:—

The Conservation Authorities Act	4
The Power Commission Act	5
The Highway Improvement Act	1
The Public Works Act	3
The Municipal Act	5
The Municipal Drainage Act	3
The Public Schools Act	5

An illustration of the nature of the Board's duties in this type of case is found in a reported decision dealing with a claim for compensation where a power transmission line was carried across private property. (*Warden vs. H.E.P.C.* (1953) O.W.N. 890).

Two municipalities filed by-laws appointing the Board their official arbitrator under Section 359 of *The Municipal Act*.

ASSESSMENT APPEALS

Pursuant to the widened right of appeal contained in Section 80 of *The Assessment Act* under which a taxpayer may appeal to the Board from the decision of a judge or a court of revision regardless of the amount involved, the Board received 202 appeals during the year in respect of property assessed for more than $6 million. Of these 108 appeals were disposed of and the

others were pending at the end of the year. In the cases disposed of 17 assessments were reduced and 14 increased, 26 were dismissed after hearing and 44 were either withdrawn or settled to the satisfaction of both parties prior to the actual hearing. As a result of the appeals actually heard, total reductions amounted to $96,050 and total increases were $31,752. Because of the volume of evidence introduced it was found that assessment appeals tended to require an increasing amount of the Board's time.

PROVINCIAL RAILWAYS

Extensions to and improvements of Railways operating under Provincial Charter in 1952 as reported to the Board will be found in the Appendix, arranged alphabetically under the names of the several systems reporting.

Annual reports, to December 31st, 1952, by Railway Companies under the Board's jurisdiction were received, of which a summarized tabulation has been prepared for publication herein. The Board has no means of auditing these reports as received and cannot therefore guarantee that the figures taken therefrom are correct or accurate.

Under *The Railway Act,* (R.S.O. 1950. C. 331), there were 13 applications to the Board in 1952.

A tabulation of Accident Reports received by the Board from the Provincial Railways during the year 1952 is included in the Appendix and shows that 3 were killed and 1,234 injured during the year. (See List Number III.)

PUBLIC VEHICLE AND COMMERCIAL LICENCES

Pursuant to *The Public Vehicles Act,* R.S.O. 1950, C. 322 and *The Public Commercial Vehicles Act* (R.S.O. 1950, C. 304), no Public Vehicle or Commercial Vehicle or Commercial Vehicle licence, respectively, may be issued by the Department of Highways without the approval of the Board being first obtained as evidenced by a Certificate of Public Necessity and Convenience of the said Board furnished to that Department, and then only in accordance with such Certificate. Upon the granting of a Certificate by the Board, the Department may then, in its discretion, issue or refuse a licence.

The Board set aside 57 days during the year for hearing the applications for the necessary certificates. In addition the Board set aside one morning each week to deal with transfers and administrative matters brought before it by the Public Vehicle Division.

During the year 62 applications were made for Public Vehicle Licences, and 1,806 for Commercial Vehicle Licences, including applications for extensions to and clarification of existing licences. A classification of these and the disposition of same is set forth in the Appendix. (See List Number IV.)

In supporting an application before the Board, the applicant may appear in person, or be represented by counsel, or, under exceptional circumstances, if unable to attend, he may submit evidence in the form of letters, petitions or affidavits. The Board hears and considers the evidence and takes into consideration the facilities extended by existing licensed operators, and it must be satisfied that public necessity and convenience requires the service for which the application is made. The Board now requires that some supporting

evidence be filed with each application for a licence or extension to a licence before the application is listed for hearing. This has tended to shorten the list as well as to insure that only bona fide applications are listed for hearing.

All transfers of Public Vehicle and Public Commercial Vehicle Licences require the approval of the Board, and care is taken to prevent anything that might appear to be trafficking in licences. Transfers of important licences are usually made the subject of a public hearing.

In continued co-operation with the Department of Education and the Public Vehicle Division, applications for school bus permits were given special consideration. A total of 351 certificates for this type of service were issued during the year. As a result, each of these operators is required to comply with the requirements of the Department respecting insurance.

SITTINGS OF THE BOARD

Public hearings held throughout Ontario in 1952 numbered 747, exclusive of hearings of applications for Public Vehicle and Public Commercial Vehicle certificates. These included applications with respect to amalgamations and annexations, assessment appeals, dispensation of a vote of ratepayers, expropriation by conservation authorities, the Department of Highways and the Hydro-Electric Power Commission of Ontario, gas franchises, improvement districts, land subdivisions, local improvements, municipal drainage, quieting titles, restricted areas, school expenditures, telephone service and transportation. The hearings necessitated a great deal of travelling by members of the Board, but permitted the presentation of all the evidence and the hearing of all interested parties within the area especially concerned, without the expense of transportation to distant points.

TELEPHONE

An analysis of the applications made to the Board under *The Telephone Act* is attached to this report in the form of the Report of the Supervisor of Telephone Systems.

REVENUE

Section 102 of *The Ontario Municipal Board Act* provides for the imposition of certain fees. During 1952 the Board's fees on applications amounted to $182,601.64, exclusive of fees on applications for Public Vehicles and Public Commercial Vehicles licences collected by the Department of Highways and credited to the Board amounting to $5,387.91.

DELAY IN FILING ANNUAL REPORTS

Owing to unprecedented demands upon the time of the Board during the years 1951 and 1952 chiefly due to the lengthy public hearings of the applications of the City of Toronto and the Town of Mimico for the amalgamation of the Toronto Area Municipalities, the filing of the Board's annual reports for the years 1951 and 1952 has been unduly delayed. The Board has also given consideration to the advisability of revising the form of these reports in order to avoid unnecessary expense in printing while including information of general interest respecting the work of the Board.

REPORT OF THE SUPERVISOR OF TELEPHONE SYSTEMS FOR THE YEAR 1952

The following applications under the provisions of "The Telephone Act" (R.S.O. 1950, C. 387) were dealt with by the Board in 1952:

Under Section 7:	For authority to issue debentures for extensions and improvements to Telephone Systems under Part I	2
Under Section 23:	For approval of sale of the whole or any part of a Municipal Telephone System	3
Under Section 25:	For approval of municipal debenture by-laws to meet cost of establishing, reconstructing, replacing or altering Telephone Systems	2
Under Section 27:	For authority to extend the payment of the cost of the work over a period exceeding ten years	1
Under Section 28:	For authority to pass Municipal debenture by-laws to meet the cost of reconstruction, replacing or altering telephone systems	3
Under Section 32:	For approval of the purchase of an existing telephone system or any portion thereof, by a Municipality	5
Under Section 33:	For determination of the compensation to be made by the Initiating Municipality upon expropriation of a telephone system	1
Under Section 52:	For an Order approving the appointment of a Commissioner to fill vacancy	1
Under Section 57:	For approval of by-laws of a Municipal Telephone System	3
Under Section 59:	For an Order prescribing date for holding annual meeting of subscribers	23
Under Section 80:	For approval of Municipal by-laws granting right to erect poles and wires upon the highways	1
Under Section 88:	For approval of by-laws of telephone companies	17
Under Section 97:	For approval of agreements for inter-change of service	189
Under Section 102:	For approval of sale of telephone systems	5
Under Section 103:	For approval of charges for telephone service	114
Under Section 110:	For authority to expend a portion of the monies for depreciation upon new construction or extensions or in the purchase of securities	9
Under Section 111:	For authority to issue stocks and bonds	4
Total Number of Applications		383

In addition to the above applications, a vast amount of correspondence relating to telephone matters has been dealt with by the Board's Supervisor of Telephone Systems, through the medium of which much information and assistance has been given to municipalities, companies and other persons interested, and many difficulties which might otherwise have necessitated a formal application and public hearing have been satisfactorily adjusted.

The number of telephone systems within the jurisdiction of Ontario of which the Board has record is 489, operating 171,184 telephones, 31,348 miles of pole lead carrying 277,088 miles of wire representing an investment of over $20,000,000.

During the year the following changes were made in the Board's records of telephone systems coming within its jurisdiction:

Letters Patent of Incorporation granted to Dawson Township Amalgamated Telephone Company Limited.

The Algonquin Park Telephone System owned and operated on a commercial basis by the Department of Lands and Forests was acquired by the Bell Telephone Company of Canada. This System served about 127 telephones.

The Board approved of the sale or transfer of the following Telephone Companies and Systems:

List No. I

Name of System	*Number of Telephones*	*To*
East Grey Telephone Company Ltd.	46	Townships of Artemisia, Euphrasia and Glenelg
Hilton Beach Telephone Line.	10	Township of St. Joseph
Mink Lake Telephone Company Ltd.	20	Davis Telephone System
New California Telephone Co. Ltd.	75	Bell Telephone Company of Canada
Strong Municipal Telephone System.	67	Bell Telephone Company of Canada
Widdifield Municipal Telephone System .	60	Bell Telephone Company of Canada

There are ten Systems owned and operated by municipalities under the provisions of Part I of "The Telephone Act," viz.: the cities of Fort William and Port Arthur, the towns of Cochrane, Dryden, Fort Frances, Kenora, Keewatin and Rainy River, and the townships of Alberton and Caledon.

One hundred and fifteen systems are now established and operating under Part II of "The Telephone Act" and furnishing service in about three hundred and fifty towns, villages and townships.

There are fifty systems owned and operated by individuals or partnerships of less than five persons, three hundred and two by Incorporated Companies, six by Incorporated Companies other than Telephone Companies, and six by Federal and Provincial Departments and Commissions.

In addition to the before mentioned systems, the Forestry Branch of the Department of Lands and Forests is operating an extensive system in connection with its work of fire prevention. This system comprises 908 telephone stations, 2,546 miles of pole lead, 577 miles of tree line and 6,214 miles of wire, the total investment being $448,171,19.

Jas. A. McDonald,
Supervisor of Telephone Systems.

APPENDIX

CLASSIFICATION OF MUNICIPAL CAPITAL EXPENDITURES APPROVED DURING 1952

List No. I

I. MUNICIPAL

		Amount Approved	*Orders Issued*
(1) General Government:			
Offices	$451,692.84		
Other buildings	28,254.00		
		$479,946.84	13
(2) Protection to Persons and Property:			
Fire	$938,456.69		
Police	364,000.00		
Court Houses, Registry Offices and Jails	395,000.00		
Street Lighting	8,070.46		
		1,705,527.15	58
(3) Public Works:			
Shops and Yards	$48,000.00		
Bridges	145,579.79		
Storm Sewers, Ditches and Drains	4,977,477.09		
Grade Separations	1,054,751.42		
Sidewalks	3,120,460.08		
Streets and Lanes	10,009,304.07		
Tunnels and Subways	1,565,335.00		
Breakwaters, Waterways, Harbour Developments	220,126.00		
Conservation Projects	282,765.00		
Road Machinery	464,239.20		
		21,888,037.65	1,236
(4) Sanitation and Waste Removal:			
Garbage and Waste Collection and Disposal	$109,068.17		
Sanitary Sewers	7,293,556.47		
Sewage Disposal Plants	2,001,296.52		
		9,403,921.16	366
(5) Health:			
Health Offices	$360,000.00		
Hospitals	4,301,488.32		
		4,661,488.32	21
(6) Local Welfare:			
Charitable Institutions	$2,553,188.00		
		2,553,188.00	9
(7) Recreation Services:			
Amusement Parks and Playgrounds	$344,200.00		
Golf Courses	100,000.00		
Skating Rinks and Arenas	301,170.00		
Swimming Pools, Beaches, Baths	430,000.00		
Community Centres and Halls	78,200.00		
		1,253,570.00	22
(8) Community Services:			
Libraries	$80,000.00		
Housing	125,000.00	205,000.00	5
Sub-total		$42,150,679.12	1,730

II. EDUCATION

List No. I

	Amount Approved	*Orders Issued*
(1) Elementary	$18,715,590.17	211
(2) Secondary	14,519,062.57	24
Sub-total	$33,234,652.74	235

III. MUNICIPAL ENTERPRISES

	Amount Approved	*Orders Issued*
(1) Electrical Distribution System	$7,206,862.91	42
(2) Waterworks	6,277,465.75	55
(3) Watermains	3,948,653.02	314
(4) Public Transportation	12,132,262.00	4
(5) Telephone	316,000.00	2
(6) Other	273,533.00	9
Sub-total	$30,154,776.68	426

SUMMARY

	Amount	*Number*
I. Municipal	$42,150,679.12	1,730
II. Education	33,234,652.74	235
III. Municipal Enterprises	30,154,776.68	426
Total	$105,540,108.54	2,391

STATEMENT OF LOCAL IMPROVEMENT AND GENERAL DEBT

	Local	*General*	*Total*
General Government, 1 and 2	$25,492.50	$2,523,981.49	$2,549,473.99
Public Works	8,259,811.75	14,264,225.90	22,524,037.65
Sanitation	4,097,753.17	5,306,167.99	9,403,921.16
Health	.....	4,661,488.32	4,661,488.32
Local Welfare	.....	2,553,188.00	2,553,188.00
Recreation Service	.....	1,253,570.00	1,253,570.00
Community Service	14,000.00	191,000.00	205,000.00
Education	.....	32,234,652.74	32,234,652.74
Electric Light	422,666.19	6,784,196.72	7,206,862.91
Water and Watermain	3,498,673.40	6,727,445.37	10,226,118.77
Transportation	.....	12,132,262.00	12,132,262.00
Telephone	.....	316,000.00	316,000.00
Other	.....	273,533.00	273,533.00
	$16,318,397.01	$89,221,711.53	$105,540,108.54

SUMMARY OF ANNEXATION APPLICATIONS

1952

List No. II

Cities *File Number*	*Applicant*	*Area Proposed to be Annexed*	*Date of Order*	*Effective Date*	*Objections*	*Approx. Acreage*
P.F.C.-4954	Galt	Part of Twp. of North Dumfries	December 15, 1952	January 1, 1952	Nil	780
P.F.M.-510	Guelph	Part of Twp. of Guelph	October 20, 1952	December 31, 1952	Nil	2,520
P.F.C.-5887	Hamilton	Part of Twp. of Barton	March 12, 1952	January 1, 1952	Nil	2,319.6
P.F.C.-6371	Hamilton	Part of Twp. of Ancaster	April 22, 1952	January 1, 1952	Nil	438
P.F.C.-7057	St. Thomas	Part of Twp. of Yarmouth	January 7, 1952	January 1, 1952	Nil	37.425
P.F.M.-728	St. Thomas	Part of Twp. of Yarmouth	November 14, 1952	January 1, 1953	Nil	4.4
P.F.C.-7261	Waterloo	Part of City of Kitchener	February 25, 1952	December 31, 1952	Nil	3.73
P.F.M.-475	Woodstock	Part of Twp. of Blandford	November 24, 1952	January 1, 1953	Nil	42
Towns						
P.F.C.-6338	Alliston	Part of Twp. of Essa	January 28, 1952	January 1, 1952	Nil	22
P.F.M.-47	Aylmer	Part of Twp. of Malahide	December 30, 1952	December 31, 1952	Nil	19
P.F.M.-731	Burlington	Part of Twp. of Nelson	December 22, 1952	January 1, 1953	Nil	111.9
P.F.C.-7040	Perth	Part of Twp. of Drummond	October 9, 1952	December 31, 1952	Nil	220
P.F.M.-595	Walkerton	Part of Twp. of Brant	September 24, 1952	November 1, 1952	Nil	14.5
P.F.M.-825	Port Dover	Part of Twp. of Woodhouse	December 4, 1952	December 31, 1952	Nil	11.5
P.F.C.-7264	Richmond Hill	Part of Twp. of Markham	October 2, 1952	January 1, 1952	Nil	1,000
Townships						
P.F.C.-7218	Murray	Part of Twp. of Trenton	April 30, 1952	January 1, 1952	Nil	150

SUMMARY OF ALL ACCIDENTS ON ALL LINES OF TORONTO TRANSPORTATION COMMISSION

January to December, 1952 — List No. III

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Collision with cars	9	23	24	20	19	21	11	26	20	26	12	14	225
Collision with autos and trucks	334	624	492	476	475	454	423	490	543	525	574	651	6,061
Collision with motorcycles and bicycles	3	0	1	6	6	3	5	2	4	4	4	1	39
Collision with wagons	2	2	2	2	4	1	2	1	2	2	2	1	23
Fell boarding cars	7	17	10	7	16	6	9	10	7	6	6	11	112
Fell alighting and caught in doors	14	39	44	43	36	37	31	38	38	31	38	37	426
Fell in cars	17	33	34	40	27	43	42	31	32	43	46	41	429
Miscellaneous	18	30	44	43	33	52	42	39	41	32	36	33	443
Total	404	768	651	637	616	617	565	637	687	669	718	789	7,758
Personal Injuries													
Passengers	38	79	100	82	100	134	89	52	98	103	101	77	1,053
Others	5	11	25	19	16	27	7	8	11	16	15	21	181
Total	43	90	125	101	116	161	96	60	109	119	116	98	1,234
Fatal Injuries													
Passengers	0	0	0	0	1	0	0	0	0	0	0	0	1
Others	0	0	0	1	0	0	0	0	0	0	0	1	2
Total	0	0	0	1	1	0	0	0	0	0	0	1	3

ONTARIO MUNICIPAL BOARD APPLICATIONS

January 1st to December 31st, 1952 — List No. IV

	Public Vehicle	School Vehicle	A	B	C	D	E	F	FS	H	K	Total
Applications received	62	351	39	1	37	237	175	896	37	12	21	1,868
Applications granted	44	345	14	1	16	164	165	762	22	5	16	1,554
	71.0%	98.3%	35.9%	.....	43.2%	69.2%	94.2%	85.1%	59.5%	41.7%	76.2%	83.2%
Applications dismissed	6	.....	10	.....	17	39	4	12	11	1	2	102
	9.7%	.....	25.6%	.....	46.0%	16.5%	2.3%	1.3%	29.7%	8.3%	9.5%	5.5%
Applications cancelled for non-use	2	6	2	.....	.....	5	.....	98	1	.....	.....	114
	3.2%	1.7%	5.1%	.....	.....	2.1%	.....	10.9%	2.7%	.....	.....	6.1%
Applications withdrawn by applicants	4	.....	1	.....	2	16	1	23	.....	4	.....	51
	6.4%	.....	2.6%	.....	5.4%	6.8%	0.6%	2.6%	.....	33.3%	.....	2.7%
Applications on reserved list as of Dec. 31st	.....	.....	4	.....	2	2	4	.....	.....	.....	.....	12
	.....	.....	10.3%	.....	5.4%	0.8%	2.3%	.....	.....	.....	.....	0.6%
Applications on adjourned list as of Dec. 31st	6	.....	8	.....	.....	11	1	1	3	2	3	35
	9.7%	.....	20.5%	.....	.....	4.6%	0.6%	0.1%	8.1%	16.7%	14.3%	1.9%

Total amount of fees from January 1st, 1952 to December 31st, 1952, $5,387.91.

MEMORANDUM OF LEGISLATION

EXCLUSIVE OF SPECIAL ACTS, UNDER WHICH THE ONTARIO MUNICIPAL BOARD EXERCISES JURISDICTION

Amalgamations and Annexations: *The Municipal Act* (R.S.O. 1950, C. 243), s. 20.

Applications may be made to the Board for the amalgamation of a municipality with any other municipality or municipalities or annexation of the whole or any part or parts of a municipality or part or parts of any unorganized township or townships to a municipality.

If an objection is filed pursuant to s.s. (15) and (16) and not withdrawn, any Order of annexation or amalgamation shall take effect only when confirmed by an Act of the Legislature.

Arbitrations:

Reference may be made to the Board for the fixing of the amount of compensation to be paid to property owners for lands and rights-of-way expropriated under:

The Power Commission Act (R.S.O. 1950, C. 281), s. 32.

The Public Works Act (R.S.O. 1950, C. 323), s. 28.

The Highway Improvement Act (R.S.O. 1950, C. 166), s. 91 and 92.

Section 92 provides for the approval of the closing, by the Department of Highways, of certain County, Township or other roads which intersect or run into a controlled access highway.

The Ontario Municipal Board Act (R.S.O. 1950, C. 262), s. 40(2).

An expropriating body may elect that the claims for compensation for lands taken or injuriously affected shall be heard and determined by the Ontario Municipal Board.

The Municipal Act (R.S.O. 1950, C. 243), s. 359.

A Council may, by by-law, designate the Ontario Municipal Board as sole arbitrator.

The Grand River Conservation Act (O.S. 1938, C. 15), s. 15.

The Board is appointed to hear appeals from the findings of the Board of Engineers as to the compensation to be paid to owners for lands expropriated; also appeals from the Board of Engineers as to the amounts to be contributed by the separate municipalities toward the cost of the work.

The Assessment Act (R.S.O. 1950, C. 24), s. 80.

The Board may hear an appeal either from the decision of the County Judge or directly from the Court of Revision, by any Municipal Corporation, the assessor or assessment commissioner, or any person assessed.

The Municipal Tax Assistance Act (O.S. 1952, C. 66), s.4.

An appeal to the Board against the valuation of provincial property may be made by the municipality, the Department of Municipal Affairs or a Crown agency.

Equalization: County Assessment (R.S.O. 1950, C. 24), s. 89(5).

The Conservation Authorities Act (R.S.O. 1950, C. 62, amended O.S. 1952, C. 11).

Under Section 14, before proceeding with a scheme the approval of the Board must be obtained in writing to the plans therefor.

Under Section 22 the Board has authority to hear appeals for the fixing of compensation for lands expropriated or injuriously affected.

Under Section 25 the Board, as Municipal Drainage Referee has authority to determine the compensation to be paid for lands expropriated on an appeal from the finding of the advisory board.

The Beach Protection Act (R.S.O. 1950, C. 32), s. 9.

The Beaches and River Beds Act (R.S.O. 1950, C. 33).

Gravel may be taken from shores or streams, if approval therefor is given by the Board.

Bridges: *The Municipal Act* (R.S.O. 1950, C. 243), s. 453 (10).

The Ontario Muncipal Board may grant relief from the rebuilding of of a bridge.

Section 457—Debentures may be issued for re-flooring of a bridge with the approval of the Ontario Municipal Board, without a vote of the ratepayers.

Capital Expenditures:

The Ontario Municipal Board Act (R.S.O. 1950, C. 262), s. 67.

A municipality shall not proceed with or authorize any works or provide any monies for any undertaking, the cost of which is to be provided for by the issue of debentures until the approval of the Ontario Municipal Board has been obtained.

In addition, the approval of the Board is required for expenditures which are to be raised in a subsequent year or years without an issue of debentures. Generally in this regard the term for repayment is confined to not more than three years.

Cemeteries: *The Cemeteries Act* (R.S.O. 1950, C. 46), s. 49 and 50.

A municipality may with the approval of the Ontario Municipal Board incorporate additional lands for cemeteries and close road allowances.

Closing of Roads: *The Highway Improvement Act* (R.S.O. 1950, C. 166), s. 92.

The approval of the Ontario Municipal Board is required before the Department of Highways may close any County, Township or other road which intersects or runs into a controlled access highway.

County Boundary Road, s. 29.

Where there is a disagreement between two or more municipalities in respect to a bridge or highway on a boundary line between counties, the matter shall be decided by the Ontario Municipal Board.

The Damage by Fumes Arbitration Act (R.S.O. 1950, C. 87) s. 5.

An appeal may be made to this Board from the Award of the Arbitrator, fixing the damages to properties occasioned by sulphur fumes arising from the smelting or roasting of nickel-copper ore.

Debentures expressed in Sterling or United States currency: *The Municipal Act* (R.S.O. 1950, C. 243), s. 299 (3). re-enacted O.S. 1952) C. 63, s. 11.

Approval of Board required.

Detachment of Farm Lands: *The Municipal Act* (R.S.O. 1950, C. 243), s. 18

The Board may hear and determine any application for the detachment of Farm Lands from any municipality.

Dissolution of Corporation: *The Municipal Act* (R.S.O. 1950, C. 243), s. 47.

Upon the application of any municipality, the Board may dissolve the municipality after a public hearing.

The Ditches and Watercourses Act (R.S.O. 1950, C. 105), s. 15 (6).

Approval of specifications or plans for drainage of lands where required

Extension of Debenture Issue Period Under Money By-law: (R.S.O. 1950, C 243), s. 298 (9) (10).

The Board may, upon the application of any municipality, extend the term for a debenture issue.

Extension of Public Utilities: *The Municipal Act* (R.S.O. 1950, C. 243) paragraph 66.

The Board may approve of a By-law providing for expenditures, without the assent of the electors if passed by a three-fourths vote of all members of the municipal council.

Extension of Time to Pass Money By-laws: *The Municipal Act* (R.S.O. 1950 C. 243), s. 290 (5).

Upon an application of a municipal council, the Board may extend the time for the passing of a by-law beyond the six weeks period required by s.s. (1).

The Federal District Commission Act (R.S.O. 1950, C. 133), s. 1.

The Councils of Ottawa, Carleton, Russell and any municipality in either of the said Counties, may, with the approval of the Municipal Board, convey to the Federal District Commission any Highway, etc., vested in the municipality upon such terms and subject to such conditions as may be agreed upon.

The Fire Departments Act (R.S.O. 1950, C. 138), s. 16, Re-Enacted O.S. 1950, C. 21, s. 6.

Reference may be made to the Board:

Under s. s. (1) by Department of Municipal Affairs if not satisfied that statement of a municipal treasurer in respect to a claim for a grant is correct;

Under s.s. (2) by council of a municipality if not satisfied with the certificate of the Fire Marshal as to whether fire apparatus or fire-fighting equipment has met the prescribed standards.

Floating Indebtedness: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 56 (c).

The Board is given power to allow a municipality to issue debentures to cover a floating indebtedness.

Franchise, Granting of: *The Municipal Franchises Act* (R.S.O. 1950, C. 249), s. 4, 6 and 8.

A franchise for the construction of a railway, gas, heat or light utility shall not be granted by a municipality without the approval of the Board, after a hearing.

Fuel and Food: The Municipal Act (R.S.O. 1950, C. 243), s. 388 (61),

By-laws of municipalities may be passed for buying, storing and selling of fuel and food and providing the money therefor, with the approval of the Board.

Highways: *The Municipal Act* (R.S.O. 1950, C. 243), s. 441.

A County may abandon a Highway with the approval of the Board.

Under Section 466, a County may apply to the Board for determination of a dispute with adjoining County relative to deviation of boundary road location, use of existing highway in lieu thereof, and proportion of cost.

The Municipal Act (R.S.O. 1950, C. 243), s. 350.

The Board may appoint one of three arbitrators for the fixing of compensation payable in respect to street widening.

The Municipal Act (R.S.O. 1950, C. 243), s. 476 (2).

A Municipality may with the approval of the Board open or establish a highway of less width than 66 feet.

The Highway Improvement Act (R.S.O. 1950, C. 166), s. 91.

The Board may hear applications for the fixing of compensation to be paid by the Department of Highways to owners of lands expropriated by the Department of Highways, if required either by the Minister of Highways or by the owner.

Pursuant to Section 92 of the same Act, the Board must approve of the closing of a road which is an *access* to a King's Highway.

Improvement District: *The Municipal Act* (R.S.O. 1950, C. 243), s. 43.

The Board may incorporate a locality into a Improvement District which, under Section 44, shall be subject to part III of the *Department of Municipal Affairs Act.*

Increased Borrowings by Municipal Councils: *The Municipal Act,* (R.S.O. 1950, C. 243), s. 341 (2).

Provides, with the approval of the Board, for an increase in the amount to be borrowed by a municipal council in any one year, to meet current expenses until taxes are collected.

Incorporation of Towns in Unorganized Territory: *The Municipal Act* (R.S.O. 1950, C. 243), s. 16. (See s. 404.)

Subject to subsection (2) of Section 13 of the same Act.

Interest Decrease or Increase on Municipal Debentures: *The Municipal Act* (R.S.O. 1950, C. 243), s. 303.

Provides for a decrease or increase in the rate of interest on municipal debentures, with the Board's approval.

Interurban Administrative Areas: *The Municipal Act* (R.S.O. 1950, C. 243), s. 22.

It is necessary for a municipality to secure the approval of the Board to enlarge, reduce, or dissolve any existing fire, police, sewage, water, transportation, local improvement or street lighting area or any other area created for any municipal purpose or to amalgamate any such area with any other area of a similar nature.

Land Subdivision Plans: (R.S.O. 1950, C. 277), s. 15a and 29.

Where owners of lands, interested municipalities and Department of Planning and Development are not in agreement, the Minister may—and on application shall—refer the application to the Board for its decision.

Licence Fees for Bicycles: *The Municipal Act* (R.S.O. 1950, C. 243), s. 388 (1), para. 109.

The fixing of an annual fee for the operation of bicycles in municipalities by residents thereof must be approved by the Board.

The Local Improvement Act (R.S.O. 1950, C. 215).

Section 6: Hearing by the Board, of objectors against widening or extension of a street, or construction of a bridge.

Section 8: Approval of the Board, of Construction By-laws for local improvements.

Section 10 (2): Where petitions are filed against a local improvement work, such objections may be considered by the Board.

Section 18: A portion of the work may be abandoned, with the approval of the Board.

Section 19: Approval of the Board is required to the deviation in the course or location of a local improvement.

Section 26 (2): Approval of the Board is required to the passing of a By-law for the widening of street pavement, without petition.

Section 27 (3): The Board may fix the apportionment of the cost of widening or diversion of a highway.

Section 29 (3): Approval by the Board of a By-law for the opening, etc., of lanes is required.

Section 29 (3): Provides for a hearing by the Board, of claims for exemption from assessment for the opening, etc., of lanes.

Section 65: A local improvement area, may with the Board's approval be enlarged, reduced, altered, dissolved or amalgamated with any other such area.

Ontario Municipalities Fund: *The Municipal Act* (R.S.O. 1950, C. 243), s. 329.

Disposition of monies held by a Council in the Ontario Municipalities Fund for education purposes requires the approval of the Board.

Parks: (R.S.O. 1950, C. 314), s. 12 (6).

Approval is necessary to By-laws setting aside a part of a park for athletic purposes.

The Power Commission Act (R.S.O. 1950, C. 281, amended O.S. 1952, C. 77), s. 45a (8).

Appeal to Board from valuation by the Department of Municipal Affairs of property of the Hydro-Electric Power Commission.

Public Utilities Act (R.S.O. 1950, C. 32), s. 37, (5).

Power is given to a municipality, with the approval of the Board, for disposing of properties purchased for the Public Utilities Commission and not required for public utilities.

Public Health Act (R.S.O. 1950, C. 306), s. 106 (12) to (20).

Provides for an application to the Municipal Board for an Order

prescribing the manner in which a sewerage project shall be carried on. The Board has power to stop up and close highways, impose such terms and conditions as may seem just, and remove restrictions where necessary, and fix compensation to be paid.

Section 110: The Board's approval is required to a debenture issue to provide for cost of investigation and report as to the best method of sewage treatment and disposal suited to the needs of a municipality.

Quieting Orders: (R.S.O. 1950, C. 245).

Under this legislation, the Board, on the application of a municipal council, may issue an Order establishing the legal existence and corporate status of a municipality, and its proper area and boundaries, in order to quiet doubts respecting the same.

Railways: (R.S.O. 1950, C. 331).

Redemption of Debentures: *The Municipal Act* (R.S.O. 1950, C. 243), s. 298 (13) (d).

Approval of the manner of giving notice of redemption.

Repeal of Money By-laws as to Residue Not Required: *The Municipal Act* (R.S.O. 1950, C. 243), s. 304 (2).

Restricted Areas: *The Municipal Act* (R.S.O. 1950, C. 243), s. 390.

By-laws of municipalities prohibiting the use of land and the erection and use of buildings for certain purposes, and regulating the cost and the type of construction thereof, shall not come into force until the approval of the Board is granted.

By subsection (17) the Board may hear an appeal by an applicant for an amendment to a Restricted Area By-law, when the Council has neglected or refused to act.

Retirement of Unmatured Debentures: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262).

The Board has power to approve of the issue of debentures, without the assent of the electors, for the purpose of retiring debentures which are redeemable before maturity.

The St. Lawrence Development Act, 1952, Section 7.

The provisions of *The Public Works Act* applies to the fixing of compensation by the Board, for compulsory taking of property by the "Commission."

Sewage and Sewage Disposal Works: *The Public Health Act* (R.S.O. 1950, C. 306), s. 106.

Subsection (12) provides for the stopping up of a highway for the purpose of sewage system, with the approval of the Board, upon an application made to it for such purpose, and imposing terms and conditions.

Sewer Benefit: *The Municipal Act* (R.S.O. 1950, C. 243), s. 389 (2).

Approval of imposition of rate therefor .

Sinking Funds: *The Municipal Act* (R.S.O. 1950, C. 243), s. 325.

Approval of the Board is necessary to the purchase of its own debentures by a municipality for its Sinking Fund. The amount so invested is limited to 25% of the total fund.

Section 318: The use of surplus in Sinking Fund, where there is sufficient to take care of all the debentures, requires the Board's approval.

Section 319: Authority is given to a municipality, with the approval of the Board, to dispense with a further levy where the amount in the Sinking Fund is sufficient to take care of the debentures.

Smoke Abatement: *The Municipal Act* (R.S.O. 1950, C. 243), s. 399, amended 1951, C. 53, s. 20 (1) and O.S. 1952, C.63, s. 17 (1).

Provides for an appeal to Board from a decision of a smoke board.

Supervision of Municipalities: *The Department of Municipal Affairs Act* (R.S.O. 1950, C. 96), Part III.

Tariff of Board's Fees: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 102.

The fixing by the Board of a tariff of fees to be collected by the Board for the performance of its duties.

Tax Rate: *The Municipal Act* (R.S.O. 1950, C. 243), s. 308, s.s. (2).

A municipality may levy a sum greater than 2½% on the dollar of the assessed value of properties, with the approval of the Board.

The Telephone Act: (R.S.O. 1950, C. 387).

Provides for the Board's jurisdiction over municipal and other telephones within the Province.

Towns Erected into Cities: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a town having a population of not less than 15,000 into a City, and declare the name which it is to bear.

Township Separation: *The Municipal Act* (R.S.O. 1950, C. 243), s. 28.

Separation by the Municipal Board, of a junior Township in unorganized territory from a union of Townships.

Townships Erected into Cities: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a township having a population of not less than 25,000 into a City, and declare the name which it is to bear.

Townships, Incorporation of: *The Municipal Act* (R.S.O. 1950, C. 243), s. 23.

Townships, Unorganized: *The Municipal Act* (R.S.O. 1950, C. 243), s. 404.

Passing of By-laws by the Council of a Township in an unorganized territory having a population of not less than 5,000, and which has been declared by the Order of the Municipal Board to be a Township, and the erection of such Townships or part of it into a Town.

The Trees Act (R.S.O. 1950, C. 399), amended O.S. 1952, C. 108.

Under Section 6 clause (d) the Board's approval is required to the issue of debentures by a county council for the acquisition of land for re-forestation where assent of electors not obtained.

Validation of Debenture By-laws: *The Ontario Municipal Board Act,* (R.S.O. 1950, C. 262), s. 61.

Authority to validate debenture By-laws and to certify debentures to be issued thereunder. After the issue of the validation Order, the By-law is binding upon the Corporation and its validity may not be contested

or questioned for any cause whatsoever. (Before the By-law is finally passed it is advisable to have the Board's approval as to form.) See Section 57, re-enacted O.S. 1952, C. 71, s. 1.

Villages Erected into Towns: *The Municipal Act* (R.S.O. 1950, C. 243), s. 17.

The Municipal Board may erect a Village having a population of not less than 2,000 into a Town, and declare the name which it is to bear.

Villages, Police: *The Municipal Act* (R.S.O. 1950, C. 243), s. 498 (3).

Approval of formation of Police Villages—where County Council does not act.

The Municipal Act, (R.S.O. 1950, C. 243), s. 499 (4).

Extension of the boundaries of Police Villages—where County Council does not act.

Vote of Electors: *The Ontario Municipal Board Act* (R.S.O. 1950, C. 262), s. 66.

The Board may, where the assent of the electors qualified to vote on Money By-Laws is required, dispense with the vote of the ratepayers after due enquiry, providing that a public hearing is held.

The Municipal Act (R.S.O. 1950, C. 243), Section 388 (1), par. 66 (b).

A debenture By-law in respect to a public utility (as designated in clause (a)) if not assented to by the electors, requires the Board's approval. The By-law must be passed by a three-fourths vote of all the members of the Council. (If debentures are to be validated it is advisable to have the Board's approval as to form of the debenture By-law before final passing.)

Wards, Divisions of Cities, Etc., into: *The Municipal Act* (R.S.O. 1950, C 243), s. 42.

The division or re-division of Cities and Towns into Wards, with the approval of the Municipal Board.

Water Rates, Fixing of: *The Ontario Municipal Board Act,* (R.S.O. 1950, C. 262), s. 56 (i) (j).

The determination by the Board of the application by any municipality to confirm, vary, or fix rates charged or to be charged in connection with the water supplied thereto by any other municipality.

Weigh Scales, and Weighing of Coal: *The Municipal Act* (R.S.O. 1950, C. 243), s. 392 (11).

With the approval of the Municipal Board, and within the limitations, restrictions, and under the conditions prescribed by an Order of the Board, By-laws may be passed by urban municipalities and townships of a population of 100,000 up as to the weighing of coal and coke.

Works Ordered by the Dominion Railway Board and the Ontario Municipal Board: *The Municipal Act* (R.S.O. 1950, C. 243), s. 300 (3) (g).

Approval of the borrowing of money by a municipality for works ordered by either of these Boards.

. . . . . .

In addition there is much legislation which comes before the Private Bills Committee, referring particularly to the municipalities asking for such legislation, in which certain matters are referred to the Board for approval.

THE ONTARIO MUNICIPAL BOARD

TARIFF OF FEES

payable on application of Appointment for Hearing

Prescribed Pursuant to R.S.O. 1950, C. 262, Section 102

THE ONTARIO MUNICIPAL BOARD ACT

(R.S.O. 1950, C. 262)

SECTION 66: Dispensation of Vote of Electors	$25.00
SECTION 67: Capital Expenditures:	
Approval of Undertaking:	
On any amount up to $5,000—Minimum Fee	$ 5.00
EXCEPT where work initiated under SECTION 8 of The Local Improvement Act—Minimum Fee	$10.00
Otherwise:	
Per $1,000—or fraction thereof (up to and including $1,000,000)	$ 1.00
Per $1,000—(on excess over $1,000,000 up to and including $3,000,000)	$ .50
Per $1,000—(on excess over $3,000,000 up to and including $5,000,000)	$ .25
Per $1,000—(on excess over $5,000,000)	$ .10
Municipal Drains:	
Special Tariff:	
Per $1,000	$ 1.00
(Maximum Fee)	$10.00
SECTION 61: Validation of By-laws and Certification of Debentures:	
Per $1,000—(up to and including $50,000)	$ 1.00
Per $1,000—(on portion in excess of $50,000)	$ .50

THE ASSESSMENT ACT

(R.S.O. 1950, C. 24)

SECTION 80: Appeals from Court of Revision or County Judge	$25.00

THE LOCAL IMPROVEMENT ACT

(R.S.O. 1950, C. 215)

SECTION 8: Public Hearing	$15.00
Approval of Passing of By-law where Approval of Capital Expenditure not involved	$10.00
SECTION 18: Abandonment of part of local improvement work	$ 5.00
SECTION 27 (3): Apportionment of cost of local improvement work	$ 5.00
SECTION 29 (3): Opening, Widening, Extension, Grading or Paving of Lane (where Public Hearing NOT Required)	$ 5.00

THE MUNICIPAL ACT

(R.S.O. 1950, C. 243, and amendments)

SECTION 20: Annexation or amalgamation on Appointment for Hearing	$25.00
SECTION 21: Alteration of Areas	$10.00
SECTION 290 (5): Extension of time to pass by-law	$ 5.00
SECTION 298 (9) (10): Extension of debenture issue period	$ 5.00
SECTION 298 (13) (d): Manner of giving notice of redemption of debentures	$ 5.00
SECTION 299 (3): Approval to issue of debentures expressed and payable in sterling	$10.00

THE MUNICIPAL ACT

(R.S.O. 1950, C. 243, and amendments)

SECTION 300 (3) (f): Bridge construction	$ 5.00
SECTION 300 (3) (f): Work ordered by Board of Transport for Canada or The Ontario Municipal Board	$10.00
SECTION 303: Change in interest rate	$ 5.00
SECTION 304 (2): Repeal of amount not required	$ 5.00
SECTION 308 (2): Approval of further levy where tax rate in excess of 25 mills	$ 5.00
SECTIONS 318, 319 and 320: Sinking fund surplus, application of	$10.00
SECTION 325: Sinking fund investment	$ 5.00
SECTION 341 (2): Increased borrowings by municipal council	$10.00
SECTION 388 (1) par. 61: Purchase and storage of food and fuel by Municipality	$ 5.00
SECTION 388 (1) par. 66 :Extension of waterworks and Electrical systems, etc.	$10.00
SECTION 388 (1) par. 109: Fixing by Municipality of fee for bicycle licences	$ 5.00
SECTION 390: Restricted Areas	$10.00
SECTION 476 (2): By-law for laying out highway less than 66 feet	$ 5.00

SPECIAL LEGISLATION

Approval of By-laws	$10.00

THE PLANNING ACT

(R.S.O. 1950, C. 277)

SECTION 15 (a) and Reference Under $10.00
SECTION 29: Hearing $25.00

THE RAILWAY ACT

(R.S.O. 1950, C. 331)

APPROVAL OF:

Plan	$ 5.00
Fenders	$ 5.00
Company's Public By-laws and Rules	$ 2.00
Company's Tolls and Tariffs	$ 2.00
Company's Examiner of Motormen	$ 1.00

CONTENTIOUS MATTERS

In contentious matters, including Arbitrations or References to the Board under the Public General Acts of Ontario requiring a Hearing, there shall be paid upon the Application the sum of $25.00

In addition thereto, at the conclusion of the hearing, there may be directed to be paid such further sum as may be determined by the Board.

COPIES OF MAPS OR PLANS, ETC.

For a Copy of any document, 10c. for each 100 words, and 50c. for each Certificate.

For Copy of any Map or Plan, applicants are to pay Draughtsman's and Engineer's Fees for same and 50c. for each Certificate.

ON APPLICATIONS not included in the above-mentioned list, such sum or sums as the Board may order or direct.

THE ONTARIO MUNICIPAL BOARD ACT

(R.S.O. 1950, C. 262)

Issue of Debentures to Retire Debentures which are Redeemable before Maturity

APPROVAL:	*Sections 56 (d) and 67*
Per $1,000—(up to $500,000)	$1.00
Per $1,000—($500,000 to $1,000,000)	$ .50
Per $1,000—($1,000,000 to $1,500,000)	$ .25
Per $1,000—(over $1,500,000)	$ .10

VALIDATION:	*Section 61*
Per $1,000—(up to $50,000)	$1.00
Per $1,000—($50,000 to $500,000)	$ .50
Per $1,000—($500,000 to $1,000,000)	$ .25
Per $1,000—($1,000,000 to $1,500,000)	$ .12½
Per $1,000—(over $1,500,000)	$ .05

Brief notes of a number of the more important Decisions issued by the Board respecting:

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ANNEXATIONS

P.F.C.—1289

IN THE MATTER OF Section 23 of "The Municipal Act" (R.S.O. 1937, C. 266), and

IN THE MATTER OF the application of the Corporation of the City of Sarnia for annexation thereto of a portion of the Township of Sarnia as set out in By-law 3149 of the said City.

The public hearing of this application occupied four days—on April 4th and 5th and May 5th and 6th, 1950, when the evidence and arguments of counsel were completed and decision was reserved. Subsequently on the 12th day of September, 1950, the Board heard a motion at its Chambers in Toronto for an Order permitting the Township to adduce further evidence and although on the argument the motion was dismissed, it was agreed by counsel that the information contained in the supporting affidavits respecting additional industrial expansion in the area in question was to be accepted as evidence without further proof. The public hearing at Sarnia was conducted in the presence of Counsel, officials of local boards and municipalities concerned in the application, and a large number of residents of the affected areas. During the course of the hearing the Board had the advantage of a complete physical inspection of the lands described in the application and the entire suburban district surrounding the City. This inspection, carried out under the guidance of representatives of the City and the Township, proved most helpful in the subsequent consideration of the evidence and exhibits. The Board was greatly assisted also by counsel for all parties and wishes to record its appreciation of their careful preparation for the hearing, their presentation of all available information and their able discussion of the important issues involved.

Although a great mass of oral and written evidence and a large number of carefully prepared exhibits, were presented at the hearing, there appeared to be little dispute as to the most important facts. The City and Township, as the Municipalities most vitally concerned in the application, appeared to have agreed that a critical point had been reached in their growth requiring a decision which would profoundly affect the future of each. As so much of the evidence was uncontroverted the Board felt that no detailed summary was required and so there follows a brief outline of the facts which it considered most significant.

(1) At the date of the application the City of Sarnia was contained within a closely built-up area of about 2,000 acres including land used for parks and streets and land covered by water. The taxable assessment in 1949 was approximately $21 million. The boundaries of the City had remained practically unchanged for the previous 40 years except for the annexation from the Township in 1945 of 70 acres as a site for government housing projects, and the addition of a 10 acre recreation field obtained from the Village of Point Edward early in the current year. In the same period the assessed population of the City had grown from approximately 10,000 in 1910 to 23,481 as of December 31, 1949.

(2) During the past decade the Sarnia district was the scene of great industrial expansion. Although this had its origin during the recent world war when the already important petroleum refining industry was greatly stimulated and the large plant of the Polymer Corporation was constructed as a defence project by the Dominion Government, there had been no decline in the post war period and a number of large new related industries became firmly established. Most of these being so important to the national economy whether in peace or war, no further expansion could be reasonably expected in the immediate future.

(3) As no industrial land of sufficient area was available within the City limits and many of the industries just described required large acreage and water transportation, recent industrial growth had taken place entirely in the section of the Township adjoining the southern boundary of the City, extending southerly along the St. Clair River. The land between Highway Number 40 and the River became almost completely occupied by industry and definite plans had been announced for further expansion east of the Highway. It was this area which the City sought to annex. It contained approximately 1,600 acres, the greater part of which consisted of either actual or potential industrial land and unsuitable for residential development in view of its location close to the new petroleum and chemical plants lying to the west. There was, however, a rather closely built-up residential section in the triangular area bounded by Vidal Street—Tashmoo Avenue and the northern boundary of the Indian Reserve, where subdivisions made many years ago had been filled up in recent years, and there was a 1949 population of some 1,200 persons. It was frankly admitted by Counsel for the Township and County that this area, though physically unsuited for housing purposes, developed so rapidly during and since the war, that little provision could be made for the prevention of undesirable housing conditions especially in the matter of proper drainage and sanitation. The Board was presented with a petition signed by a large number of property owners resident in this section asking that the area be annexed to the City on the ground that essential improvements were required which the petitioners felt could not be supplied by the Township.

(4) During the recent period of industrial expansion in the Township, practically all available land within the City limits had been completely built up, so that the City had no available sites for new industries and less than 200 scattered lots for residential purposes.

(5) As a result of the industrial expansion in the adjoining Township and the accompanying rapid increase of the City's population, it was necessary for the City to increase its current and capital expenditures in order to provide necessary municipal services and additional school accommodation. In addition, the City incurred heavy capital expenditures in providing and developing land for some 700 housing units constructed under various agreements made with Wartime Housing Limited, and Central Mortgage and Housing Corporation Limited. These projects provided greatly needed housing accommodation but it was significant that, according to the evidence of the local manager of the latter company, about half of the tenants of these houses were employed outside the City. Similarly it was established by the evidence of officers of four of the larger Township industries that considerably more than half of their employees resided within the City. Largely as a result of this situation the City

had to provide additional school accommodation, extensions of its water mains and additional pumping capacity, increased park and recreational facilities, heavy capital and maintenance grants to public hosptials and increased capital and operating expenditure for other purposes.

(6) The growth of the City's population was not accompanied by a proportionate increase of taxable assessment and there was practically no new industrial assessment to help to carry these added financial burdens.

(7) As to the requirements of the City for future capital works, the evidence was brief, but sufficient to show that in the near future there must be heavy additional expenditures. In a comprehensive reported dated August 10, 1945, the City's consulting engineers recommended the undertaking of costly improvements to the water works plant and the construction of a modern purification plant. The most expensive parts of this project were not yet authorized and there was little doubt that, after the lapse of five years, sharp upward revisions of the estimates of cost of construction and of the population requiring services would have to be made. Evidence was given to show the immediate need of new primary and secondary schools to be located in the easterly and north-easterly sections of the City where the greatest increase of population occurred. Another major project which could not be postponed much longer was the enlargement and extension of sewage and drainage facilities and the construction of a modern sewage disposal plant. Regardless of the result of the present application the City was faced with major capital expenditures for essential services and should in the interest of the present and future ratepayers plan these services to meet the needs of the expected population of the entire area.

(8) While the industrial expansion referred to thus greatly increased the problems of the City, its effect upon the Township was even more pronounced. In the 10 year period from 1940 to 1949 the assessed population has increased from 3,947 to 10,238, and the total taxable assessment from $2,382,899 to $4,510,863. More than two-thirds of the residents of the Township lived in the suburban area adjoining the City. The number of children of school age and pre-school age resident in this area was a much greater proportion of the population than in the rural sections of the Township.

(9) In spite of the substantial increase of industrial and commercial assessment in the Township the total taxable assessment had not kept pace with the growth of the population. In the last ten years the population was almost tripled while the assessment which must provide revenue for the municipal service of that population was doubled. Although the Township had a total area of some 40,000 acres, almost half of its 1949 taxable assessment had become located in the portion of the Township west of the Murphy side-road including the area which the City now sought to annex. More than 80 per cent of the Township's 1948 industrial and commercial assessment was located in the 1,600 acres sought by the City, and there was little doubt that the last revised assessment roll would show an even greater concentration. The analysis of the 1948 assessment roll indicated clearly that most of the new residential assessment had resulted from the development of the fringe areas north and east of the City into residential neighbourhoods of the urban type. Farm assessment in the Township as a whole was only one-third of the total, and residential assessment had increased to the point where it was approaching

one-half of the Township's available assessment. In at least three of the former school rural sections close to the City farm assessment had practically disappeared and the character of the other suburban school sections was changing year by year.

(10) An illustration of the rapidity of the change in the character of the community adjacent to the City was found in the record of building permits issued by the building inspector of the Township. In the years 1948 and 1949 permits were issued from more than 500 new homes valued at more than $2 million and there was also an impressive amount of new construction of churches, schools and commercial buildings.

(11) As a result of the rapid growth of the new residential areas in the Township there had been a natural increase in the capital expenditures of the Township resulting in a substantial increase in the amount of outstanding debenture debt. The total debt of the Township had increased from slightly over $64,000.00 in 1940 to nearly $600,000.00 at the end of 1949, although less than $40,000.00 of this amount represented the Corporation's share of local improvements and general debt of the municipality, and the balance consisted of owner's share of local improvement costs and school debt. It was clearly indicated that the Township would be required in the near future to undertake further capital expenditures of all types which might impose a severe strain upon its comparatively limited borrowing power.

(12) The only services provided by the Township in the new residential areas had been primary schools and road and drainage improvements with most of the cost charged to the areas served and a minimum drain on the municipal treasury. The time was rapidly approaching when more costly projects must be undertaken which would have to be financed chiefly out of general taxation. Moreover, the increasing demand for services usual in an urban community would soon require a considerable expansion of the township's administrative facilities, the organization of more departments, and the employment of more officers and employees. It was probable that many of these new services would duplicate similar services being provided by the City.

From the above brief summary of the evidence it was immediately apparent that while the City had established its claim for the annexation of more land in the Township to provide for the City's growth, the approval of the present application would have a serious, if not a disastrous effect upon the Township and would make it virtually impossible for the Township to provide urgently needed services in the new residential areas within a reasonable time. The area sought by the City would supply its needs for new industrial sites, but, in the opinion of the Board, the lands were quite unsuitable for residential uses. There were no lands available for extensive housing development within the City limits, and it followed that if the Township was unable to provide the services required for new housing in desirable areas as a result of the loss of present and future industrial assessment, it was entirely possible that the industrial growth which had meant so much to the City and entire district might be abruptly checked. Existing industries could not expand and new industries could not be expected to establish themselves in areas where adequate housing in good residential districts did not exist and could not be provided. For these reasons the Board came to the conclusion that approval of the City's proposal for the annexation of the area described in the application

would be seriously detrimental to the best interests of both the Township and the City, and that the application must be refused.

If the jurisdiction of the Board had been limited to the issue or refusal of an order for the annexation of the area specifically described in the authorizing by-law of the applicant municipality, the rejection of the present application would have disposed of the entire matter. As the legislation formerly stood it was at least doubtful whether the Board could order any annexation which deviated in the slightest degree from the terms of the application, even if the evidence established an obvious need for some extension of the municipal boundaries in the interests of all parties concerned. In 1947, however, important changes were made in the relevant legislation and the then Section 23 of "The Municipal Act" (R.S.O. 1937, C. 266) read, in part, as follows:—

"23.—(1) Upon the application of any municipality authorized by by-law of the council thereof . . . the Municipal Board may by order on such terms as it may deem expedient, . . .

(c) annex the whole or any part or parts of any other municipality or municipalities to the municipality:—" . . .

"and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, unorganized township or unorganized townships in which the area or areas is or are located is or are specified in the application. 1947, c. 69, s. 2 (1)."

An examination of the scope of this legislation was necessary by reason of the position taken by the Township through its counsel at an early stage of the public hearing. The Township conceded that the City had outgrown its present boundaries and had a legitimate right to obtain in the Township the land needed for further industrial and residential growth; but the Township strongly opposed the City's proposal to annex the particular area described in the application on the ground that this area contained not only all the important industries in the Township, but also most of the lands suitable for new industrial development, and its loss would make it impossible for the balance of the Township to provide necessary services for the new residential areas located beyond the northerly and easterly city limits. These areas required service of an urban type which a rural municipality such as the Township could not hope to provide without the assistance of the substantial industrial assessment available from the area sought by the City. But counsel for the Township went further and advised the Board that he had been instructed that the Township would not oppose annexation to the City of the desired industrial area, if the City were required to take with it all the new residential areas and assume the responsibility which the Township found to be such a serious problem. The Township, therefore, through its counsel requested the Board either to dismiss the City's application outright, or, in the alternative, to meet the City's need for growing space by ordering the annexation of all the actual and potential industrial lands south of the City, and all the existing and future residential areas to the north and east. In other words, the Township asked the Board to effect a complete and permanent separation of the present and future urban sections and add them to the City, so that the remaining portion of the Township could revert to its former character as an ordinary rural

municipality. Counsel for the Township contended that the Board had ample power to make such an order under the existing legislation and this contention was not seriously opposed by counsel for the City.

The Board carefully considered the wording of the entire sections and of the subsection referred to, and was satisfied that it had jurisdiction to order the annexation of a larger area than the area described in the application authorized by the by-law of the applicant municipality. Although this might seem a very drastic power to confer upon an administrative tribunal appointed by the Province, it was entirely consistent with a number of sections of "The Municipal Act", and other statutes relating to municipal affairs by which the Province retains important controls over the local governments which it has created and to whom it has delegated wide powers. At all events, the language used in the statute was clear and free from ambiguity. It appeared to impose no limit upon the Board's discretion, once a properly authorized application for an order of any of the types set forth in subsection (1) of said Section 23 had been validly made. In the opinion of the Board, however, the possession of such a wide discretionary power carried with it a corresponding duty to use it sparingly, and with due caution. Where, as in this case, the proposal for the annexation of a much larger area was advanced for the first time in the course of the public hearing of an application involving the same municipalities but more limited in its scope, it was obviously desirable that ample time should be given to enable all municipalities and local boards concerned and all owners of property affected to consider the implications of the new proposal and to present to the Board such additional evidence and argument as might be considered relevant to the extended enquiry. In the present case the alternative proposal was clearly and fully set forth by counsel for the Township on the second day of the public hearing in the presence of counsel representing school boards, ratepayers associations and property owners interested in the proposed additional areas north and east of the City. The extent of the enlarged area was definitely described and was illustrated on a large scale map which was later made available for public inspection. The hearing was then adjourned for one month during which time at the suggestion of the Board, representatives of the councils of the municipalities concerned met to discuss the entire matter, although they were, unfortunately unable to negotiate an amicable settlement. On the resumption of the public hearing there was a large and representative public attendance and ample opportunity to present evidence and submissions in opposition to or in support of the Township's alternative suggestion. Under all the circumstances the Board was satisfied that sufficient notice of its intention to deal with the broad problem had been given, and in the interests of all concerned it was justified in proceeding to consider the Township's alternative proposal on its merits.

The Township proposed that the eastern boundary of the City should be extended to the road known as the Murphy side-road and that all the land lying to the west of that road from the shore of Lake Huron on the north to the fourth line road on the south, comprising approximately 3,600 acres should be annexed to the City at this time in addition to the 1,600 acres of actual and potential industrial land described in the City's application. In the Township's view this would satisfy the City's urgent present need of suitable land for residential development and allow ample room for increased urban population for a long term of years. It would also satisfy the desire of the Township for a separation of the rural and urban sections of its territory for the reason

that, with the exception of the Bluewater residential area, all the new urban communities were established in this general area.

After careful consideration of the evidence and exhibts, and following its inspection of the district, the Board came to the conclusion that the future of the area in question lay with the City rather than with the Township. The scarcity of housing accommodation in the City and the exhaustion of its supply of building lots was compelling ever increasing numbers of new residents to seek shelter beyond the northerly and easterly city limits. Economically and socially the interests of these new residents were identified with the urban centre and they naturally sought an urban way of life. Although many of them would take advantage of the opportunity to enjoy the advantages of larger lots and uncrowded living conditions very few might be expected to use their lands as a source of income. The evidence indicated that within a very short space of time these new residents of the Township greatly outnumbered the rural population and were in a position to exert a dominant influence in the municipal administration. The municipal services desired by the great majority of the present and future residents of this area would be distinctly urban in type and the Board was inclined to agree with the submissions made on behalf of the Township that the City was in a better position to provide these services within a reasonable time and at minimum expense than the Township. While there had been a commendable degree of co-operation between the two municipalities and their local boards in meeting the immediate needs of the residents of the newly built up areas, the provisions of permanent services required careful planning and integration with the capital works programme of the City. Experience has shown that in most cases the efforts of a rural municipality to provide adequate services of an urban type for a rapidly expanding suburban population may impose severe financial burdens and cause serious impairment of its borrowing power.

The Board was well aware of the heavy burden which would be placed upon the City by the annexation of such a large area and the many difficult problems it would have to face. There existed, however, several considerations which, in the opinion of the Board, were of sufficient importance to justify its action in requiring the City to accept the responsibility of assuming the local government of the entire area.

In the first place, if the rapid transition of the area from an agricultural to an urban economy continued without any extension of the City's political boundaries, the basic division of interest between the urban and rural sections would undoubtedly develop into continuous and open controversy in all matters within the jurisdiction of the Township council and its local boards. This conflict of interest might eventually involve the County as well in its connection with the annual task of equalizing the assessments of its constituent municipalities. In the Township, as a result of the fundamental conflict of interest referred to, there might reasonably be expected the development of a strong agitation for the formation of one or more new urban municipalities adjoining the present city limits. This situation has been a feature of metropolitan growth throughout Canada and the United States where for any reason the central city failed to obtain sufficient additional territory in advance of the growth of unorganized urban communities adjacent to its boundaries. In the Sarnia district there was no reason to expect any different result where two-thirds of the population of the Township was concentrated in the areas immediately adjacent to the City. The real issue placed before the Board in these proceedings was whether the Sarnia area be permitted to develop into

a number of adjacent urban municipalities with wasteful duplication of many services, limited financial resources, unequal distribution of industrial and commercial assessment and all the other disadvantages of an artificial and illogical division. The Board had no hesitation in saying that it must do everything in its power to prevent such a development in the interests of the present and future residents of this great area. The Township in apparent anticipation of the difficulties of the future was prepared on its part to forego any urban ambitions and to return to its former status of a purely rural township. In spite of the difficulties involved, the Board felt that the City should accept this unique opportunity to bring within a single jurisdiction the rapidly growing urban communities on its northern and eastern boundaries before they became separate political entities.

In the second place the Board felt it necessary to anticipate the future needs of the City for a fairly lengthy period of years, notwithstanding the difficulties involved in attempting to estimate the future rate of growth. Annexation proposals are necessarily accompanied by local uncertainties and disturbance in the orderly operations of municipal government. Wherever possible it is desirable that additions of territory should be designed to meet the needs of the municipality for many years and that a series of minor annexations of small areas should be avoided. The application should, if possible, be based upon a serious study of the economic and social factors which have influenced the development of the municipality in the past as well as a careful appraisal of the probable effect of current events and trends. It was important that due allowance should be made for changing standards of desirable population density and the growing demand for better residential neighbourhoods, more open spaces, and larger industrial sites. Municipalities are learning that they also must provide much more land for recreational purposes, for public institutions and for wider streets and arterial highways. For these reasons the Board was satisfied that former standards of the amount of acreage required for future urban population must be revised. In the present case the Board did not have the advantage of hearing any expert opinion as to the expected future population of the City and the surrounding area and the amount of land which would be needed to accommodate the expected increase. It was satisfied, however, from its inspection of the area that the new population in the City and fringe areas was bringing with it new standards as to living space and it was not unreasonable to expect that within the next twenty years the greater part of the area between the eastern limits of the present City and the Murphy side-road would be predominantly urban in character. Indications were that the entire area would be needed for residential purposes and that future industrial growth would occur in the large area south of the City where important industries had already become established, and the land, generally speaking, was not suitable for residential development.

A third and compelling reason for a major addition to the City's area was the urgent need of a comprehensive plan for the provision of essential urban services over most of the area described in the Township's alternative submission. As a result of an unexpected and perhaps undesired increase of population in its western sections, the Township had been at a serious disadvantage in attempting to make provision for essential services in an orderly way and in accordance with any considered policy. The Township was dependent upon the City for its water supply and for drainage outlets. The development of new residential neighbourhoods had been determined solely by the availability of

water and access to all-weather roads with the result that many of the new locations were seriously handicapped. There were in some places premature subdivisions and unrelated street locations. There was a very obvious need that the development of the entire area should be the responsibility of a single authority and that the extension of urban services should be made in accordance with the plans of the City which would necessarily have to provide the basic framework of the services required. If these services were to be provided with reasonable efficiency and economy the City should be placed in a position to control the location of new neighbourhoods to determine the over-all street and highway pattern and to establish priorities for public works over a period of years according to a sound engineering plan and with a view to the requirements of sound finance.

For these reasons the Board, after careful consideration concluded that the entire area west of the Murphy side-road should be annexed to the City at the present time while it is still possible to direct and control the urban growth which will undoubtedly extend over this area and to avoid the economic waste which would result from a continuation of unplanned development.

Whether the present rate of residential growth in the area in question continues depends to a very large extent upon the continuance of industrial expansion in the portions of the Township lying south of the City and adjacent to existing and proposed railway lines. As has been stated there were many indications that such industrial growth had not reached its ultimate development and it seemed quite clear that the entire area included in the City's original application would be required for industrial purposes. The question which required to be answered was whether the land included in the Indian Reserve adjoining this industrial area should be left within the Township until there was an actual change in its status. It was made clear in the evidence that the existing industrial area south of the city and indeed the site of the present Imperial Oil plant within the City at one time formed part of the Indian Reserve and that as existing industries expanded and new industries became established the necessary land was obtained by a series of arrangements for the sale or lease of various portions of the old reserve in accordance with the requirements of the Indian Act (R.S.C. 1927, Chapter 98, as amended). The Board had little doubt that the demand for industrial lands in this area would continue and that further separation of various parcels from the existing reserve could be expected in the near future. In view of the great extent of the existing and future residential areas to be added to the City the Board felt that additional industrial areas which might be created in future out of the Indian Reserve should be included within the scope of the City's taxing authority in the hope that the industrial assessment thus made available would keep pace with the additional financial burden which the City must assume with the expansion of the residential areas to the north and north-east. For this reason, although the Indian Reserve was neither an asset nor a liability from a municipal point of view, being exempt from assessment and taxation under Section 4 (2) of "The Assessment Act", and requiring no substantial expenditure either for municipal services or for education, the Board concluded that the entire Reserve should now be removed from the Township and added to the City so that no further applications for annexation of lands detached from the Reserve would be required, and future urban development whether for residential or industrial purposes within this area would be within the jurisdiction of the City. The Board was satisfied that the addition of the Indian Reserve to the

City would not interfere in any way with the rights of the Indians or change their legal status in any respect. The addition of the Indian Reserve to the City would extend its southern boundary to the southern boundary of the Township of Sarnia being the boundary road between the Township and the adjoining Township of Moore. There would therefore be included the lands now comprised in Registered Plan 274 detached from the Reserve some years ago and a comparatively small triangular area at the extreme south-western corner of the Township forming a portion of Union School Section No. 16. Although these latter areas were physically separated from both the Township and the City by the Indian Reserve, the Board considered that they should be added to the City along with the Reserve so that the new southern boundary of the City would coincide with the existing boundary between the two Townships mentioned. According to the exhibits filed, the area included within the Indian Reserve contained approximately 3,600 acres and had a population of about 400 persons.

During the course of the public hearing the Board heard representations from the owners of certain lots on Park Avenue north of the northern city limits and immediately east of the Athletic Park property which was annexed to the City by an order of the Board dated September 21, 1949, and made effective January 1, 1950 (P.F.C.-337). This comparatively small area was not within the Township, but formed part of the Village of Point Edward and was not included in the City's present application. At the request of the Board, counsel for the Village of Point Edward obtained and filed with the Board a certified copy of a resolution of the Village Council passed on the 8th of January, 1951, consenting to an order that this isolated section of the Village should be included in the present annexation order and made part of the City of Sarnia. This would create a more desirable boundary between the City and the Village at this point, and in the absence of any serious objection, the Board was prepared to grant the request of the owners for annexation of this area to the City.

In the result, the Board, pursuant to its powers under the enabling sections of "The Municipal Act", under date of the 31st January, 1951, directed the annexation to the City of Sarnia of "all that portion of the Township which lies west of the Murphy side-road from Lake Huron on the north to the 4th line road on the south, together with the portion of the Township lying west of the road forming the present easterly boundary of the Indian Reserve extending from the 4th line road to the southern boundary of the Township. To this area shall be added a portion of the Village of Point Edward bounded by the present easterly limit of the Village on the East, the Errol Road on the north and west, and the present limit of the City of Sarnia." This meant the addition to the City of approximately 7,200 acres of land in addition to the 1,600 acres comprised in the area described in the City's original application. It should supply all the needs of the City for industrial and residential expansion for many years to come. It was designed to meet the request of the Township for a complete separation of its rural and urban areas and the transfer to the City of the responsibility for the development of the entire region within which its legitimate needs for growing space must be satisfied. It provided for the City so far as could be foreseen, the compensating benefits of additional commercial and industrial assessment in return for the undoubtedly heavy financial burdens which must be assumed in providing for adequate municipal

and educational services for its overflow population. The Board had every confidence that the citizens and elected representatives of this important industrial City would accept the heavy responsibility of providing economic and efficient local government for this area with a sincere appreciation of their obligations to future generations. By intelligent planning, adequate zoning and building by-laws, control of subdivisions and other available means, much could be done to direct the future development of this area towards the creation of a better city within the limits of reasonable taxation.

It was not expected that the City should incur huge capital expenditures for the immediate provision of all the services required in the annexed area. Its programme must necessarily be carefully worked out over a period of years and must at all times be consistent with sound municipal finance. The Board believed, however, that in view of the burden assumed by the City, the Township had a corresponding obligation to use every available means to prevent the creation of new urban areas with their attendant problems of fringe development within the remaining sections of the Township adjacent to the new City boundary. The Board's order was based to a large extent upon the request of the Township that it should be relieved from the problems resulting from urban expansion within a rural area which the Township did not seek, and which it considered inconsistent with the type and the form of municipal government desired by its people. It is now largely within the power of the Township Council to discourage further urban development along the new boundary. If the Township is sincere in its desire to prevent future annexation problems it should take immediate action to control new subdivisions and to establish a predominantly agricultural type of land use along its western boundaries as newly established by the Board's order. It cannot hope for the extension of urban services or facilities beyond this boundary unless in the remote future the entire area now annexed to the City becomes completely developed.

The Board was aware that many difficult practical problems would require solution as a result of this order of annexation and that the transfer of various municipal services from the jurisdiction of the Township to that of the City would require the utmost co-operation on the part of the Councils, local boards and officials concerned. The formal order of the Board, therefore, was confined to the territorial changes involved and the fixing of the effective date which under the provisions of the enabling legislation could be not less than 28 days from the date of the order. The Board could see no reason why the adjustment of assets and liabilities made necessary by the annexation should not be made as of the 1st of January 1951, and so ordered. This did not prevent the gradual transfer of services according to arrangements which were mutually agreed upon between the Township and the City. In the absence of agreement on such matters and in the event of any unforeseen difficulties which might arise, any of the municipalities or local boards concerned could apply to the Board for directions.

No objection was filed and an order was issued making the effective date of the annexation March 1st, 1951.

P.F. C-7235

IN THE MATTER OF Section 20 (9) of "The Municipal Act" (R.S.O. 1950, C. 243), and

IN THE MATTER OF an Order of the Board dated the 31st day of January, A.D. 1951, providing for the annexation to the City of Sarnia of part of the Township of Sarnia, and

IN THE MATTER OF the joint application of the Board of Education of the City of Sarnia and of the Sarnia Suburban District High School Board for adjustment of certain assets and liabilities pursuant to subsections (9) (b) and (11) of the said Section 20 of the said Act.

DECISION

The Board of Education of the City of Sarnia and the Sarnia Suburban High School Board requested The Ontario Municipal Board to decide a dispute which arose between them in the adjustment of assets and liabilities resulting from the annexation to the city of a considerable portion of the Township of Sarnia by an Order of this Board dated the 31st day of January, A.D. 1951.

The matter in controversy was the proper distribution of the 1951 legislative grant payable by the Department of Education which under the regulations in effect amounts to $55,951.66. The Suburban Board contended that because this grant was based upon the actual approved costs of the Suburban Board for the year 1950, the entire amount should be paid to the Suburban Board. The Board of Education of the City of Sarnia (hereinafter called "the City Board") relied upon the provisions of Regulation 22, in Part II of the 1951 Regulations respecting general legislative grants which provides for a division of the grant where part of a high school district is transferred from one board to another and prescribed the method by which the division is to be made. In the present case the number of pupils in attendance from the suburban district amounted to 485 on December 1, 1950, of which number 164 were from the area subsequently annexed to the city. The result was that 321/485 of the total grant, amounting to $37,091.92, had been awarded by the Department to the Suburban Board, and the balance of $18,859.74 given to the City Board. This was explained in a letter from the grant office to Mr. Huey, Secretary of the Suburban Board, dated August 10th, 1951. The Suburban Board contended that inasmuch as it was obligated to pay the entire cost of education of all these pupils during the year 1950, it should receive the entire amount.

After careful examination of the material filed and the relevant regulations, the Board came to the conclusion, under date of January 24, 1952, that the contention of the Suburban Board could not be upheld, and that the division made by the Department was correct. This Board was of the opinion that the contention of the Suburban Board was based upon a misconception of the nature of the legislative grant. Although the amount was calculated on the actual approved costs of the previous year, the grant was not intended to operate as a partial reimbursement of those costs. In each of the years since January 1st, 1946, the legislative grants to the Suburban Board were the

Provincial contribution for the estimated costs of education in the year for which the grant was made. The result was that in the year 1951 when the City Board became responsible for the cost of educating some of the pupils formerly within the suburban district it became entitled to a share of the 1951 grant in accordance with the regulations. The Board found that the division of the 1951 grant as made by the department was correct.

In its investigation of this matter it became apparent to the Board that since its inception on January 1st, 1946, the Suburban Board had in each year seriously under-estimated its requirements for current expenditures with the result that on December 31, 1951, there was an accumulated deficit on current account of $106,896.03. This was based on information obtained from the Department of Education showing the actual receipts and payments in the years 1946 to 1950 both inclusive. During this first year of operation the board received from grants $17,550 and from tax levy $11,587.01, a total of $29,137.01. Its total payments amounted to $35,056.82, leaving a difference of $5,919.81, which should have been included in the estimates for the following year. However, in 1947 the difference between the receipts and payments added another $48,409.64 to the accumulated deficit, and in the following years there appeared to be a consistent under-levy. This might be explained by the fact that all of the pupils were attending the city schools and that the City Board's claim for non-resident pupils was never finalized and actually presented until some time after the close of the calendar year. A copy of the claim presented in respect of 1950 amounting to $107,400.60 was filed and, it should be noted, dated as of April 12, 1951. Unfortunately the Suburban Board did not feel it necessary to provide for this account in its 1950 tax. The Suburban Board apparently levied in each year only the amounts necessary to pay its actual expenditures for the preceding year. The result was that on December 31, 1950, the Suburban Board was indebted to the City Board for the amount stated in respect of operations for 1950 and previous years, and was also under an obligation by virtue of Section 28 (1) (m) of the High Schools Act, to submit to the municipal councils concerned an estimate of the sums required for the year 1950. In the opinion of this Board the reduction of the area effective as of January 1st, 1951, made it then necessary for the Suburban Board to settle accounts with the City Board as of that date. The account payable by the Suburban Board to the City Board actually represented the amount which should have been levied prior to December 31, 1950, and constituted an obligation of the suburban area including the portion thereof which, following the recent annexation, formed a part of the city. In the settlement of accounts as between the two boards this accumulated deficit should be treated as an obligation of the suburban area as it existed on December 31, 1950. The City Board therefore must give credit to the Suburban Board for a portion of this account equal to the percentage of equalized assessment formerly included in the suburban area but removed therefrom by the annexation order. The Board was prepared, if any difficulty arose in determining the exact amount to be credited to the Suburban Board in respect of this item, on application of either party, to determine the amount. The further question whether the City Board's share should be levied against all the rateable property within the enlarged city liable for high school and vocational school rates or specially charged against the duly annexed areas was left to the discretion of the City Board.

P.F. C-3220
P.F. C-3202

IN THE MATTER OF Section 20 of "The Municipal Act", (R.S.O. 1950, C. 243).

RE:

Application by the Township of Toronto for annexation thereto of part of the Township of Toronto Gore (P.F. C-3220)

and

Application by the Township of Toronto Gore for amalgamation of that Township with the Police Village of Malton, and annexation thereto of part of the Township of Toronto (P.F. C-3202)

These applications were filed at approximately the same time, affected substantially the same lands and were mutually contradictory.

The application of the Township of Toronto, if granted, would have added to that Township all the lands in Toronto Gore lying to the south-east of the sideroad between the northern and southern divisions of the Township of Toronto Gore and those lying between the easterly limits of the Township of Toronto, in the County of Peel, and the westerly limits of the Township of Etobicoke, in the County of York; in reality the whole of the southern division of the Township of Toronto Gore.

The application of the Township of Toronto Gore would have added to that Township all the lands adjoining the westerly limits of the Township of Toronto Gore to a width of two concessions. Both applications included lands comprising the Police Village of Malton of an area of some 273 acres, of which about 60 acres are in the Township of Toronto Gore and the balance in the Township of Toronto.

From the evidence submitted it developed that the most pressing problems of the area were for adequate water supply to satisfy the needs of the existing and future population and the requirements of the area's major industry (AVRO), adequate sanitary sewage and sewage disposal system to serve both the industrial and the residential areas, adequate school accommodation, expanded police and fire protection and proper planning and zoning of existing and future urban areas. It was established at the Hearing that the Township of Toronto had under consideration the providing of a new municipal water supply system to meet the needs of the southern portion of the Township and, moreover, had, at the request of AVRO, employed engineers and outlined a project for extension of a public water supply in the Malton area. This was later approved in principle. Similarly, the Township of Toronto Gore had explored the possibility of purchasing water from the Township of Etobicoke.

After a careful review of all the submissions, the Board decided that these problems could be solved only if the original Police Village, along with the

existing and future industrial areas and the areas which appeared destined for further residential development, be included within a single municipality and form the same taxing unit; further, that the most pressing need was the provision of an adequate public water supply and that the source of such supply should be Lake Ontario, and, having in mind the immediate needs of AVRO, the heavy capital expenditure required for this project and the limited available local assessment of the area, that the providing of such water supply should be a co-operative project as between the Municipality and the Company. The Board was not satisfied that the Township of Etobicoke would be in a position to supply the needs of the Township of Toronto Gore and the Malton area in time to meet the needs of the Company whose new engine plant was under construction.

Under all the circumstances, and in view of the extreme urgency of a water supply in the interests of the residents of the Malton area and the strategically important industry referred to, the Board, after most serious consideration, decided it must grant the application of the Township of Toronto and an Order was issued under date of April 10th, A.D. 1951, accordingly, such Order to take affect as of January 1st, A.D. 1952.

ARBITRATIONS

P.F. C-1563

BETWEEN:

UPLANDS BUS LINES LIMITED

Applicant

— and —

OTTAWA TRANSPORTATION COMMISSION

Respondent

This arbitration was to determine the purchase price payable by the Ottawa Transportation Commission for the assets and undertaking of Uplands Bus Lines Limited, as of June 6th, 1950, and was the outcome of a situation created by the annexation to the City of Ottawa of part of the Township of Gloucester on January 1st, 1950.

Uplands Bus Lines Limited was incorporated September 1st, 1946, with an authorized capital of $40,000.00 and operated under Public Vehicle Licence (including certain charter trip privileges) and School Bus Public Vehicle licence. Practically all of the routes operated lying within the annexed area, the necessity for a Public Vehicle licence was automatically removed.

Uplands Bus Lines Limited continued to operate until June 30th, 1950, when the Ottawa Transportation Commission undertook the transportation service in this area.

In addition to the regular service operated by Uplands Bus Lines Limited, contract services were given to National Research Council Field Station, Rideau Military Hospital, and Department of Veterans Affairs for special service to and from the Bus Terminal and over licensed routes. Also, a school bus service was operated under contract with Gloucester S.S. No. 1.

The operation was a combination of regular Public Vehicle service and contract business inter-related in a manner to effect economies in operation and a joint net return that appeared to be remarkable considering the number of buses used. The revenue from special and contract services was approximately $3,000.00 per month for ten months of the year and formed approximately one-half of the gross revenue of the whole system. The contracts themselves were of a temporary character; some subject to cancellation on 30 days' notice, others for a school year and all of them the subject of competitive tenders.

$979.00 was actually paid for land and $8,056.55 was the actual cost of the building erected for terminal at No. 1270 Bank Street, Ottawa, in 1941.

Since Uplands Bus Lines Limited was incorporated two Reo 1946 buses were purchased new and two Reo 1947 buses second-hand. At the time of incorporation the Company owned two Reo buses 1942 purchased new. These six buses together with a Cadillac retired from service constituted the rolling stock to be evaluated.

Recently two Twin Coaches had been delivered and it was agreed by the City that these would be taken over at cost.

The Board had the benefit of inspecting the routes operated by Uplands Bus Lines Limited and the Terminal property at No. 1270 Bank Street and after giving consideration to the evidence adduced and the arguments submitted found, under date of January 31, 1951, as follows:

1. Valuation of Terminal at No. 1270 Bank Street

Land	$5,000.00
Building adds to value of land	28,000.00
Total for land and buildings	$33,000.00

2. Bus Equipment

Six Reo buses and Cadillac	$42,000.00

including all considerations such as licences, goodwill, forcible taking and interest from date of possession

3. Parts, Accessories, Appliances and Equipment—These items to be valued for used parts, appliances, etc., at one-half of their original cost. For New Parts, Appliances, etc., their current market value at the time of possession.

ASSESSMENT APPEALS

P.F. C-7109

IN THE MATTER OF Section 80 of "The Assessment Act" (R.S.O. 1950, C. 24).

BETWEEN:

CORBIN LOCK COMPANY OF CANADA LIMITED

Appellant

— and —

THE CORPORATION OF THE CITY OF BELLEVILLE

Respondent

DECISION

This was an appeal from a decision of the Court of Revision confirming an assessment of the Appellant's lands made in 1951 for 1952 taxation. The grounds of appeal as set forth in the Notice of Appeal were as follows:

"1. On or about the 11th day of May, 1946, the Respondent entered into an agreement in writing with the Appellant granting a fixed assessment to the Appellant.

2. Under all the circumstances the assessment appealed from is unjust and inequitable."

Counsel for the Appellant conceded at the outset that the assessment was not in excess of actual value. He submitted, however, that there was an agreement between the Appellant and Respondent for a fixed assessment until 1959 by virtue of which the buildings would be assessed for $60,000.00 only instead of $131,400.00, the amount in question. In support of his submission two letters were introduced in evidence; one from H. D. Bateman, then Assessment Commissioner, to L. E. McLean, Manager of the Appellant Company, dated May 11, 1946, and the second from the Appellant signed by L. E. McLean to H. D. Bateman, dated May 15, 1946.

In the first letter the significant sentence was as follows: "Your final assessment for 1949 taxes will be your present land assessment plus $60,000.00 building assessment plus 60 per cent of land and buildings for business assessment. As Assessment Commissioner I certify that the 1949 assessments should continue until 1959." The second letter was merely a confirmation of the arrangements set out in the first letter and, if a binding contract between the parties could be made in this manner, the second letter might be construed as an acceptance of an offer. In the Board's view, it was not necessary to discuss this point or the matter of consideration for a contract.

Counsel for the Appellant was invited to supply some authority for the proposition that an assessment commissioner had the power to bind a municipality to a fixed assessment for a period of some twelve or thirteen years but

he quite frankly admitted that he was unable to find any authority for this proposition. On being faced with this, he further submitted that the Respondent Municipality was estopped from denying the agreement but was unable to cite any authority to established that estoppel might operate against a municipality for the unauthorized acts of its officials or servants.

It is trite to say that a municipality, being a creature of statute, may act only within the limits of the powers granted by statute. The granting of a fixed assessment being an extraordinary privilege may be given only under the terms of the statute which prescribes rather rigid terms and provides certain safeguards for the ordinary ratepayer. These may be found in Section 388 (62) of The Municipal Act (R.S.O. 1950, C. 243). No attempt was made by the Appellant to establish that the provisions of this section had been complied with or that there was any other statutory authority for a municipality granting a fixed assessment by a purported agreement between the assessment commissioner and a ratepayer. In the opinion of the Board, this was sufficient to dispose of this appeal and it becomes unnecessary to deal with the several quite cogent arguments advanced by the Respondent.

Under date of August 18th, 1952, the appeal was accordingly dismissed.

P.F. C-4552

THE CORPORATION OF THE CITY OF GALT

— and —

C. TURNBULL COMPANY LIMITED

The assessment appealed against was that fixed by the Court of Revision of The City of Galt on three parcels of land of the respondent, made in the year 1950, on which taxes would be levied in 1951, and was as shown below together with the assessment as made by the City Assessment Commissioner:

(a) Roll 1835 was a parcel at the south-west corner of Queen Street and Water Street North. It had a frontage on Queen Street of 127 feet, on Water Stret North of 330 feet and comprised an area of 0.924 acres. This was built upon. Original assessment $26,620.00; Court of Revision $13,325.00.

(b) Roll 1728 had a frontage on Water Street North of 66 feet and a depth of 142 feet. It was vacant and was some distance south of the south-east corner of Queen Street and Water Street North. Its area was 0.215 acres. Original assessment $7,205.00; Court of Revision $2,508.00.

(c) Roll 1126 was an L-shaped parcel fronting in part on King Street. It was built upon and had an area of 0.592 acres. Original assessment $7,675.00; Court of Revision $7,100.00.

Parcels "a" and "c" supported the buildings of the Company which was engaged in the manufacture of textiles. Their character was therefore of an industrial nature. Parcel "b" was vacant and could possibly be sold as commercial land but was being used by the Company as a parking lot for their vehicles. Its use could therefore be said to be industrial.

Some evidence was given as to the flooding of the premises on Parcel "a" from the overflow of the raceway traversing the property and also of the flooding of North Water Street and the consequent encroachment of flood waters onto Parcels "b" and "c."

The main point of contention was whether the Assessor was correct in assessing the lands on which industrial buildings were erected as if they were commercial lands, thereby implying that the buildings and the land were not being put to proper use and at the same time valuing the buildings in the same manner as if they were being properly used. It was considered probable that were the present buildings of the Company situate on an equal area of land in the vicinity of Galt of equal accessibility but not on a commercial street the land would be assessed at $4,350.00 per acre and the property would be worth just as much to the Company or a prospective willing purchaser as it was at the time of the appeal. As in the Stauffer-Dobbie case, the Board was of the opinion that where an Assessor, for the purpose of preserving uniformity, assigned a commercial value to lands with buildings thereon and used as industrial or residential properties and at the same time set the value of the buildings by the replacement cost less depreciation method he should apply a compensating obsolescence factor to the value of the buildings.

In this case that was not done as the buildings, some of which were very old, were measured, the replacement cost computed and 45 per cent depreciation deducted to obtain the assessed value.

The Board therefore, under date of July 30, 1951, ordered that the assessments in dispute herein as fixed by the Court of Revision be confirmed.

P.F. C-2132

BETWEEN:

HEINTZMAN AND COMPANY LIMITED

Appellant

—and—

THE ASSESSMENT COMMISSIONER OF THE CITY OF LONDON

Respondent

This was an appeal from a decision of the Court of Revision of the City of London confirming an assessment made by the Assessment Commissioner in 1949 for the purposes of 1950 taxation of lands and premises owned by the appellant at 242 Dundas Street in the City of London. The land was a long narrow interior lot on the north side of Dundas Street close to the centre of the retail business district of the City, of a width of 23½ feet and a depth of 198 feet to a lane in the rear. In the year 1948 and formerly the land alone was assessed for $25,525.00 amounting to about $1,080.00 per foot. In the year 1947 the appellant completed extensive improvements and additions to the buildings upon the land resulting in a substantial increase in the building assessment. An existing one-storey and basement structure at the rear of the three-storey store covering the front 60 feet of the lot was demolished and

replaced by a substantial reinforced concrete addition 3½ storeys high and 100 feet long thus providing an enlarged continuous building 160 feet long with a modern basement throughout and three complete floors available for business purposes. In addition a concrete loading platform with a steel canopy was built at the rear, together with a new freight elevator. At the same time the 60 year old front building was completely renovated and improved and a new automatic passenger elevator installed in this section.

After completion of the alterations the assessment of the entire building was, in the year 1948, $46,875.00 a net increase of $30,400.00 for the building, resulting in a corresponding increase in the total asessment from $42,000.00 to $72,400.00. From the 1948 assessment the owner appealed without success to the Court of Revision and to the County Judge but, on a further appeal to the Municipal Board, the Board, under date of April 20th, 1947, reduced the building assessment to $39,300.00 and the total assessment to $64,825.00. No change was made in the assessment of land.

A few months after the decision just referred to, the respondent, when making his 1949 assessment of the same property, restored the disputed building assessment in full, with the result that the owner again appealed to the Court of Revision. When that body confirmed the restored assessment the owner appealed directly to this Board. At the hearing counsel for the respondent admitted that there had been on change in any of the facts or circumstances affecting the assessment and that the issues were in every way identical with those under consideration in the former appeal. Counsel for the appellant urged that under the unusual circumstances the onus which ordinarily rested upon the appellant had been shifted to the respondent and that the respondent, in effect, was attempting to obtain a re-adjudication by the same tribunal of a cause previously heard and decided against him. The Board was unable to agree with the appellant's contention; with some exceptions not here material, the Assessment Act clearly requires that the administrative act of assessment be carried out annually. It had been held in a number of decisions of the highest authortiy that the principle of *res judicata* did not apply to decisions of assessment appeal tribunals determining the quantum of assessment as distinct from questions of law or interpretation. (*Canadian Leaf Tobacco vs. Chatham* 1944 O.R. 459 at 462.) The Board also recognized the right of either party to appeal to the Court of Appeal under Section 80 (7) of the Assessment Act (R.S.O. 1950, C. 24). This course was not really open to the respondent following the 1949 decision of the Board owing to the unfortunate fact that the evidence was not reported.

The substantial issue raised in the appellant's notice of appeal was that the assessment of the property in question greatly exceeded that of comparable property in the City of London used for similar purposes and having a greater value when considered in accordance with the directions set forth in subsections (2) and (3) of Section 39 of the 1937 consolidation of the Act. In support of this contention the appellant relied upon the evidence of Messrs. McLeish and Graham, Appraisers of extensive experience, both of whom compared an adjoining building at 240 Dundas Street occupied by W. McPhillips Limited for the purposes of the sale, display and storage of electrical goods and appliances, and a large furniture store at 228-30 Dundas Street occupied by Ontario Furniture Limited. Prior to the conclusion of the hearing the members of the Board carefully inspected these three buildings which they found comparable to an unusual degree. All were located on the north side of Dundas Street between Richmond and Clarence Streets, approximately one block to the east

of the centre of the downtown retail shopping and business area where the highest land assessments prevail. A summary of the dimensions and the computation of the building assessments of the three properties follows:

(a) Heintzman Building:

Front building, about 66 years old but partly remodelled in 1947—3 storey white brick and basement 23'6"x60' = 1,410 sq. ft. x 50' high =

70,500 cu. ft. @ .15 =	$10,575.00	
Less Depreciation 15% =	1,575.00	
Net		$9,000.00

New construction (at rear) 3 storey and basement, white brick, steel and reinforced concrete, 23'6"x100' = 2,350 sq. ft. x 50' high =

117,500 cu. ft. @ .25 =	$29,375.00	
Elevator $4,000+Vault $500+Booths, etc., $4,000 =	8,500.00	
		$37,875.00

Total cubic contents 188,000 cu. ft.
Net building assessment $46,875.00
Net building assessment per cu. ft., $.249.
(Land—23'5"x198' ..... 25,525.00)

Total $72,400.00

(b) McPhillips Building:

3 storey and basement white brick 23'9"x60'x50' high ..	71,250 cu. ft.	
3 storey and basement white brick 23'x100'x58' high ..	133,400 cu. ft.	
Total cubic measurement	204,650 cu. ft.	
Net building assessment		$21,040.00
Net building assessment per cu. ft., $.1028.		
(Land—23'9"x198'		26,260.00)
Total		$47,300.00

(c) The Ontario Furniture Building:

4 storey and basement 38'6"x44'
3 storey and basement 38'6"x26'
3 storey without basement 38'6"x105'
Total cubic measurement 246,000 cu. ft.
Net building assessment $31,335.00
Net building assessment per cu. ft., $.1273.
(Land—38'x198' ..... 44,265.00)

Total $75,600.00

It was immediately apparent that when the differences in the size of the three buildings had been adjusted, the Heintzman Building had been valued for assessment purposes at a rate approximately twice that applied to the Ontario Furniture Building and nearly 2½ times the rate applied to the adjoining McPhillips Building. The substantial question to be determined in this appeal was whether these differences accurately and fairly represented the amounts by which the existing buildings had increased the respective values of the parcels of land upon which they were erected, within the meaning of subsection (3) of Section 39 of the Assessment Act.

The evidence given by the appellant's witnesses included their opinions as to the comparative sale and rental values of the three buildings referred to, and they dwelt at length upon the details of the construction, layout and interior finish of all three buildings with more emphasis upon their comparative

usefulness for the purposes of the respective peculiar type of retail business carried on than on their comparative cost of replacement. While admitting the superior type of construction and finish of the Heintzman Building and as enlarged, both witnesses agreed that the appellant had spent much more on the improvements and additions than would have been spent by a prudent owner desiring the maximum return on his investment from rental revenue, and were of the opinion that, with this type of property, potential rental revenue was a more reliable guide to comparable values than cost of replacement; they estimated the present rental value of the Heintzman Building at about 10 per cent more than the adjoining McPhillips Building and at approximately one-third less than the Ontario Furniture Building. The following analysis of the estimates by these witnesses of the normal monthly rental value per cubic foot of each of the three buildings on a unit basis was significant,—

	Heintzman Building	*McPhillips Building*	*Ontario Furniture Building*
McLeish	$.32	$.24	$.34
Graham	.36	.34	.40
Average	$.34	$.29	$.37

It was thus seen that when the differences in size of the three buildings was taken into account and the opinions of these two witnesses were averaged, there remained a very great disparity between their estimate of comparative normal rental value and the comparative assessed values per cubic foot. The explanation of this discrepancy was found in the evidence of the respondent when he admitted that the assessment of these buildings was, in effect, based almost entirely on the estimated cost of replacement as of the year 1940, which he considered a normal year. A manual of comparative replacement values for various types of buildings had been used by the assessment department to obtain a uniformity of assessments and Exhibit 12 was filed, giving a classification of various types of store buildings and a schedule of unit rates for assessment purposes according to the type of construction. He expressed the opinion that recent selling prices of properties in the area were an unreliable guide and did not represent normal values. As to rentals he had made a summary of existing actual rentals of a number of properties in the downtown area (Exhibit 10) but was firmly of the opinion that actual rents could not be said to indicate true values because of the great number and variety of special circumstances which might in any case result in a particular person paying a very high or very low rent for a particular property. He apparently considered conditions abnormal and the high rentals and selling prices excessive, and he exhibited by way of contrast a list of actual vacancies of business premises in this same district, as disclosed in the assessment rolls for the years between 1929 and 1941. (Exhibit 11.)

The Board found itself in agreement with the respondent's opinion that current sales and rentals could not be accepted as reliable guides in the determination of actual values for assessment purposes unless they be considered in the light of the experience of a number of years. It was clear, however, that this evidence along with all other available information affecting real property values should be taken into consideration whether the inquiry related solely to comparative values or to the more difficult problem of the actual value of a single property. On the other hand, the Board found it quite impossible to agree with the opinion of the Assessor, as expressed in his evidence and demonstrated in the actual assessments of the three buildings in question, that actual

or estimated cost of replacement should be the dominating consideration in the valuation for assessment purposes of properties of the class referred to in this appeal. This opinion was confirmed by the evidence of the witnesses McLeish and Graham. The Board substantially accepted this view and although it was conceded that the cost of replacement of the Heintzman Building might well be two or three times that of the McPhillips Building when calculated on a unit basis, found itself unable to value the appellant's building at a rate per cubic foot higher than twice the rate applied to the adjoining building. The result was that if 10.28 cents per cubic foot could be take to represent the amount by which the McPhillips Building had increased the value of the site, the corresponding rate for the appellant's building should be 20.5 cents per cubic foot for 188,000 cubic feet, which would indicate a building assessment of $38,600.

If the present appeal were to be decided solely on the issue of inequitable assessment as alleged in the notice of appeal, the above conclusion would be sufficient to dispose of the case. However, counsel for the respondent had urged in his able argument, that notwithstanding Section 82 (2) of the Asssessment Act which permitted the Board to have reference to the value on which similar land in the vicinity was assessed, the dominating and controlling factor must be the actual value of the appellant's property under appeal. (*Dreifus vs. Royds* (1920) 61 S.C.R. 326, 328.) He argued therefore that whatever might be the decision of the Board on the issue of alleged inequality, the appeal must be dismissed unless the assessment be in excess of the actual value of the entire property including the building. There could be no doubt that assessment on this basis is the fundamental principle of assessment for the purposes of local taxation in Ontario. It is required by the statute in the following terms,—

> "33 (1) Subject to the provisions of this section, land shall be assessed at its actual value."

As previously stated, subsection (3) of the same section (as enacted by the 1946 amendment) then goes on to prescribe certain elements to be given consideration in ascertaining actual value, and it is significant that in the present version of this subsection it was "normal rental value" and "normal sale value" which the assessor must consider.

The expression "actual value" was given no statutory definition but it has been the subject of judicial interpretation in a large number of authoritative decisions. Many of these were conveniently summarized in a recent decision of the Supreme Court of Canada, in the case of *Sun Life vs. City of Montreal,* 1950 S.C.R. 220. An earlier judicial definition of the term was adopted by Duff, C. J. in *Montreal vs. Laval* 1935 S.C.R. 304, 305.

> "It means exchangeable value—the price which the subject will bring when exposed to the test of competition."

In a British Columbia case (*Bishop of Victoria vs. City of Victoria,* 1933, 4 D.L.R., 524), it was held that the term "actual value" meant value in exchange, that is what a prudent man of business, taking into consideration the "reversible currents" which affect the value of land, would be likely to pay for a property of the character under assessment. (*Macdonald, J. A.* at page 539.) As carefully pointed out in the judgments in the *Sun Life* case, actual value for assessment purposes was not to be determined on the same basis as in compensation cases where "value to the owner" must be considered. It seemed clear that

while many elements and factors should be considered in determining actual value, no fixed rules have been laid down to determine in what proportion these various elements should be taken into account in a particular case, or when dealing wtih various kinds and classes of either lands or buildings. (*Sun Life vs. Montreal,* 1950 S.C.R. 227). It was also clear that while the assessed values of similar property in the vicinity should not be the controlling factor, they must be given due consideration and weigh as an item of evidence in the consideration of the actual value of the property under appeal. (*Dreifus vs. Royds* (supra), at page 329.) As pointed out by Estey, J. in the *Sun Life* case (1950 S.C.R. 253)—

> "actual value, as above defined determined upon consideration of so many factors is unavoidably a matter upon which, in respect of many properties, men of experience and capacity will entertain many opinions."

The evidence given before the Board in the present case afforded a good illustration of the wide variation resulting from the different methods of approach employed by different individuals and their conscious or unconscious emphasis of various factors affecting the question of actual value. The Board carefully considered and weighed this evidence in the light of its own physical inspection of the property and it found itself unable to agree entirely with the views of any of the witnesses who expressed opinions as to the actual value of the appellant's property, or to agree with the assessor's view that the added value created by the building should be closely related to the actual cost of construction or the estimated cost of replacement, even in a so-called "normal" year. As was the case in the building under consideration in the *Sun Life* decision, many of the expensive features of this building, in the Board's opinion, had not increased its value in an economic sense, and would not stand the "test of competition" from the point of view of either normal sale or normal rental value. Undoubtedly these features added to the value to the owner, and from the owner's point of view were therefore justified. On the other hand, the Board while accepting in the main the opinion of the appellant's witnesses on the question of the normal rental value of the building, was unable to accept the opinion of either of them as to the selling value of the property. These estimates, in the Board's opinion, appeared to reflect either potential future value or present inflated value, possibly influenced by current market prices, but completely unreliable as indications of real or actual value. In this respect the Board preferred the much more conservative and cautious view of the respondent expressed both in his evidence and in his assessment of other properties in the district. The Board was unable to see how a property built and used for commercial purposes which even in this location had a normal gross rental value of some $8,000 annually, could be said to have a real or actual value far above the amount upon which such a gross income would provide a reasonable return in normal times. In the opinion of the Board, at least in the case of properties well located and suitable for the purposes of retail business, a reasonable test of actual value for assessment purposes could be applied by ascertaining whether over a period of years the property could be expected to produce a gross revenue which, after the deduction of taxes, normal costs of maintenance, a reasonable allowance for depreciation, the cost of all services supplied including heat, and the estimated cost of the periodic renovation and modernization required to attract tenants operating in the highly competitive retail business field, would provide for the owner a modest return on the estimated value. The respondent in his evidence

stated that after an examination of the rents paid for a large number of retail stores in the downtown district, he found that on the average such rents equalled about 13 per cent of the assessed values of the properties. The Board, on the basis of the evidence in the present case, was unable to determine whether this could be considered a reasonable gross return and doubted whether, after the deduction of taxes estimated by the respondent to amount to 4 per cent, the remaining 9 per cent would be nearly sufficient to cover all the other costs referred to above and to provide any net return. In the view of the Board, however, this percentage of gross return, although probably inadequate, might be fairly used to test the actual property value as set out in the assessment. The normal annual rental value of the appellant's property, in the Board's opinion, might be reasonably determined to lie about half way between the estimates of the appellant's witnesses, that is to say, about $8,300 per year. If this were capitalized at 13 per cent the indicated capital value of the property would be $63,850 from which must be deducted $25,525 the amount of the assessed value of the land, leaving $38,345 for the building assessment. If, therefore, the same test, based on normal earning capacity ascertained by taking the average opinion of the same witnesses, be applied to the adjoining McPhillip Building the result would closely approximate the actual assessed value of that building.

The Board found, under date of December 17th, 1951, that the building in question in this appeal added to the actual value of the land no more than $38,600. As the assessment of the land was not disputed throughout, the Board therefore directed that the building assessment included in the assessment under appeal be reduced to $38,600 and the total assessment to $64,125 and that the 1949 assessment roll be amended accordingly.

P.F. C-2267

An appeal was filed by the County Assessor of the County of Norfolk from a decision of His Honour Judge G. A. P. Brickenden, County Judge, allowing the appeal of the respondent from a decision of the Court of Revision in respect of the assessment of certain farm lands owned by the Imperial Leaf Tobacco Company of Canada Limited in the Township of Middleton.

The assessment was made in 1949 for 1950 taxation in the total sum of $17,175 made up of $7,975 for the building assessment and $9,200 for the land, said to contain approximately 147 acres.

The building assessment was not in dispute, the only issue in the present appeal being whether the learned County Judge was right in reducing the land asessment to $6,700 in view of the evidence adduced as to the quantity and the value of the various types of farm land included in the respondent's property.

In 1946 a system of classifying the various types of farm land found within the County had been agreed upon and the suggested rates for No. 1, No. 2 and No. 3 tobacco land were fixed at $125, $100 and $70 per acre respectively.

It was not seriously disputed that this system of appraisal for assessment purposes had been uniformly applied by the local assessor in the Township

of Middleton in assessing farm lands in the year 1949. The real dispute between the parties concerned the proper method of using the assessment rating schedule referred to. The appellant contended that the tobacco land values should be applied to all the land considered suitable for tobacco growing including any portion which an individual owner might have kept out of production for any reason, whereas the respondent claimed that the suggested rates would be fair only if applied to the land actually used in the year of assessment for the purpose of growing tobacco.

The Court of Revision, on the appeal of the Company, confirmed the assessor's unit values but made a slight variation in the quantity of tobacco land assessed, with the result that the land assessment was reduced in the sum of $500. On appeal to the County Judge in a decision given orally, this acreage was again reduced by removing a total of 36 acres from the tobacco land categories and assessing it as No 1 general farm land, resulting in a further reduction of $2,000 in the land assessment.

Counsel for the present respondent did not seriously dispute the evidence of the appellant and the allegation of his counsel that the decision of the County Judge was based on his view that the valuation of tobacco land at the higher rate should be confirmed, in the case of an individual owner, to the acreage actually under cultivation in the year of the assessment, or at most, to the tobacco acreage allotted to him in that year by the Flue-Cured Tobacco Marketing Association.

This is a purely voluntary association not to be confused with "The Farm Products Marketing Board" or a local board constituted under the authority of "The Farm Products Marketing Act" (R.S.O. 1950, C. 131). Growers belonging to this association, of which the respondent was one, in return for the benefits of group marketing of their tobacco, agree that such benefits shall be limited to the crop derived from a specific acreage allotment (referred to as "growing rights") by the governing body of the association. The right of any farmer to grow as much tobacco as he desires is not restricted by this voluntary arrangement but he can require the association to market on his behalf only the tobacco raised from his allotted acreage. Any excess amount would be grown at his own risk and would be a surplus crop which, if sold at all, would ordinarily bring a lower price. It will be seen that these "growing rights" do not have the legal status of quotas fixed by duly constituted marketing boards under the statute referred to. This type of voluntary limitation of acreage grown is not equivalent to a restrictive covenant running with the lands or a valid and effectual restrictive by-law or regulation passed under Provincial authority which must be given due recognition as affecting the use and therefore the value of land liable to assessment.

If there are special difficulties and risks involved in the growing and marketing of this type of crop, allowance for those depreciating factors should be made by the assessor in fixing an average unit value of the various grades of tobacco land for assessment purposes. In the present case the Board was satisfied that the rates in question fairly reflected the difference in actual value of the various types of farm land and that proper weight had been given to the conditions referred to when the rates were fixed. It was also satisfied that these rates were intended to be applied to all lands considered suitable for tobacco growing and not only to the lands actually planted to tobacco. The direction in the schedule that assessors should assess "double the acreage grown

or double the rights to grow" clearly indicated this intention, and the evidence and exhibits showed conclusively that the rates were in fact applied to the tobacco lands of the respondent and all other tobacco farms in this manner.

Counsel for the respondent did not attempt to establish by evidence any claim that the actual value of the lands in question was lower than the amount of the assessment. The appellant, on the other hand, produced evidence from affidavits as to land transfer tax of the selling prices of various tobacco farms in the vicinity over a period of years ranging from 1930 to 1949. Assessed valuations were well below actual selling prices and in recent years the market price of tobacco farms greatly increased. The respondent did not attack the assessment as inequitable in comparison with the assessed values of other farm lands or other tobacco farms. In each case the Assessor had classified the various types of land included in each farm, and had assessed, at the rates specified in the schedule referred to, all the land considered suitable for tobacco culture regardless of the acreage actually planted to tobacco. In some cases the amount actually grown was indicated on the assessment records. In some cases the amount of tobacco land assessed was exactly twice the amount of the acreage planted which indicated that the Assessor had ascertained the amount of tobacco land by doubling the acreage grown or the acreage allotted by the Association. In the opinion of the Board an arbitrary determination of the amount of tobacco land in any such manner cannot be justified and it was clearly the duty of the Assessor to ascertain by physical inspection the number of acres in each soil category. It was stated in evidence that the association in practice allotted "growing rights" for one-half of the available acreage and for this reason the so-called double assessment of the acreage grown was substantially correct. In the Board's view, however, this amounted to accepting the judgment of an outside body as to the amount of acreage, whereas it was the duty of the Assessor to conduct his own inspection and exercise his own judgment. However, the Board was unable to find that this error had affected the result to the prejudice of the respondent and the other persons so assessed.

The paramount duty of an assessor is to ascertain the actual value of the lands to be assessed and in the case of farm lands this must surely require a careful examination and appraisal of the various types of land as it exists. The actual value of productive farm lands is not destroyed by temporary disuse, there being no question in this case of neglect or lack of proper cultivation. In the case of lands suitable for the production of special crops, sound methods of cultivation may require that the land be left fallow or planted with a green fertilizer crop in order to preserve and maintain its special value. Undoubtedly due consideration must be given to these matters when such lands are appraised for assessment purposes and the value per acre should be set in the light of all the peculiar requirements of these special soils as well as marketing conditions likely to affect the value of the product. The Board was satisfied that the Assessor and the Members of the Court of Revision had exercised their practical judgment and their knowledge of local conditions over a period of years in adopting and using the rates applied to the assessment of the respondent's tobacco lands. It could not further escape the conclusion that under all the circumstances the learned County Judge was in error in applying such rates only to some 40 acres of the 76 acres of tobacco land on the respondent's farm. As to the actual quantity of tobacco land, the Board

accepted the decision of the Court of Revision rather than the figures of the Assessor. It was noted that the latter in his evidence did not attempt to show any error in this respect in the decision of the Court.

Under date of September 27, 1951, the Board allowed the appeal and the decision of the Court of Revision was restored. The assessment of the respondent's lands in the year 1949 for 1950 taxation was fixed at $8,700 for land and $7,975 for buildings; a total of $16,675.

P.F. C-4580

BETWEEN:

THE SUPERTEST PETROLEUM CORPORATION LIMITED

Appellant

— and —

THE CORPORATION OF THE TOWN OF ORANGEVILLE

Respondent

This was an appeal from the decision of the Court of Revision of the Corporation of the Town of Orangeville dismissing the Appellant's appeal in respect to the assessment of certain lands, buildings and business of the Appellant, being the north part of Block 1, Plan 50, which decision confirmed the assessment for 1950 of $300.00 for land (measuring 70 feet by 63 feet), $4,500.00 for buildings and $2,880.00 for business, making a total of $7,680.00.

The appeal was filed on the grounds that the assessment was in excess of the actual value of the buildings and land and of the actual cost of the buildings.

The property was purchased by the Appellant in 1929 for $100.00. It was then vacant and in the following year the Appellant erected a combination warehouse and garage at a cost of $1,720.00 and also four 15,000 gallon tanks at a cost of $3,200.00, making a total outlay for land, buildings and tanks of $5,020.00.

In 1946 the assessment was $200.00 for land and $2,200.00 for buildings; in 1947 this was increased 50 per cent to $300.00 for the land and $3,300.00 for the buildings. This assessment was appealed to the Court of Revision and confirmed. In 1948 and 1949 the assessment remained unchanged but in 1950 the assessment on the buildings was increased to $4,500.00, or a total of $4,800.00 for land and buildings.

It was stated by the Appellant that there had been no physical improvement to the buildings during recent years other than ordinary maintenance. By way of comparison reference was made to the Imperial Oil Company property immediately to the north, to the effect that the Appellant's property was

smaller as to land, smaller and inferior in regards to buildings, and had less storage capacity than the neigbouring property, but carried the same assessment. The Imperial Oil property is also fenced and is somewhat more accessible; further, that the replacement cost of the Appellant's property would be $15,000.00 for lands and $10,000.00 for buildings, or a total of $25,000.00, but that the premises would not be easily saleable and might be worth about $15,000.00.

The Assessor for the Town stated that substantial increases were made in the assessment of a large number of business premises in 1947 and again in 1950. This increase was applied to about 100 of the larger and more valuable properties. Increases in 1950 amounted to from 10 per cent to 35 per cent. Included were six properties owned by various oil companies and used as combined warehouse, garage and district distribution points. All these properties were given identical assessment over a period of years with the exception that when the Shell Oil Company erected a new building in 1948 that assessment was increased to $7,000.00 and then further increased in 1950 to $7,700.00. Under cross-examination the Board learned that the British American Oil Company appealed its 1950 assessment to the County Judge when the previous assessment of $3,600.00 was restored.

The Board, after considering the evidence and arguments and after viewing the property in question, came to the conclusion that the assessment as made by the Assessor of the Town of Orangeville in 1950 for 1951 taxes was excessive in comparison with the assessment of similar properties, ordered, under date of the 5th day of February, 1951, that the assessment of the Appellant's property upon which taxes shall be levied for the year 1951 shall be $300.00 for land and $3,300.00 for buildings, or a total of $3,600.00 and that a corresponding reduction be made in the business assessment.

P.F. C-5667

J. H. Lowther appealed from the decision of the Court of Revision of the City of Ottawa respecting the assessment of his lands, being Lot 44 and part of Lot 45, West Patricia Avenue, formerly located in the Township of Nepean but by reason of Orders of this Board dated December 6, 1948, and February 28, 1949, annexed to the City. Under the Board's Orders the annexed lands were to be assessed in 1950 on the same basis as the assessment previously used by the Township which was $375.00 for land and $1,900.00 for "unfinished" building. The Township's jurisdiction ceased as of January 1, 1950. The building in question was only partially completed when the annexation became effective. The City assessor in 1950 made a complete assessment for 1951 taxation increasing the land valuation to $625.00 and fixing the building assessment at the previous figure of $4,250.00. On appeal to the Court of Revision the building assessment was reduced to $3,900.00. The Board, under date of September 24, 1951, found that the added assessment made under Section 57a of "The Assessment Act" should be reduced to $2,000.00.

P.F. C-5938

Hawinda Taverns Limited, operators of "Brule" Hotel, appealed from the decision of the County Judge respecting the building assessment by the Assessor of the Town of Penetanguishene of the "Brule" Hotel in the year 1950 for 1951 taxes at $29,200.00, confirmed by the Court of Revision and increased by the County Judge to $43,806.00. This amount did not include the 20 per cent locality deduction which was the main grounds for the appeal to this Board.

A card system of valuing buildings in the Town of Penetanguishene for assessment purposes based on the County Assessors' Manual was installed in 1949, and in view of this the Board decided that the percentage location allowance for all buildings as set out in the schedule, should apply to hotel buildings. The original assessment of the Town Assessor was confirmed at $42,916.00 with directions for a 20 per cent location allowance together with 15 per cent depreciation allowance, leaving a net assessment of $29,188.00.

P.F. C-3715

BETWEEN:

J. W. REID

Appellant

— and —

THE CORPORATION OF THE TOWN OF TIMMINS

Respondent

This appeal was from the Decision of the District Judge in respect to the appeal by the Appellant of the 1950 assessment for taxes payable in 1951 on property known as the Reid Block which consisted of three floors—the ground floor of five stores, the second floor of seven office suites and the third floor of fifteen living suites of one to two rooms each. There were also two shops and storage space in the basement. The building measured approximately 30 feet by 108 feet, was partly of brick veneer construction and partly brick veneer on frame and steel and was built in 1915.

In 1950 the assessment of $37,500.00, in effect for approximately fifteen years, was increased to $73,425.00. On an appeal to the Court of Revision the assessment was increased to $88,525.00, resulting in an appeal directly to this Board and a cross-appeal by the Town to the District Judge. The District Judge further increased the assessment to $90,390.00 and again an appeal was made to the Board from such decision.

Following a careful review of the expert evidence submitted, and of the arguments submitted, and having thoroughly inspected the property, the Board, as of December 14th, 1951, dismissed the appeal.

COMPENSATION FOR LANDS EXPROPRIATED

IN THE MATTER OF Sections 33 and 34 of "The Highway Improvement Act" (R.S.O. 1937, C. 56).

P.F. C-3024

BETWEEN:

ELMS HOLDINGS LIMITED

Applicant

— and —

THE CORPORATION OF THE COUNTY OF YORK

Respondent

The land in question herein was expropriated by the Respondent on the 25th day of February, A.D. 1950, and consists of part of Lot 28, in Concession "B" fronting on the Humber River in the Township of Etobicoke and contains 0.626 of an acre. It is a narrow strip facing the Albion Road approximately 896 feet in length, with a width of 22 feet on the northerly limit and 62 feet on the southerly limit, and forms part of what was formerly property of the Thistledown Golf and Country Club. It was acquired by Elms Holdings Limited and later leased for $5,000.00 a year to the Elms Golf and Country Club.

The land expropriated adjoins the eighth fairway of the present golf course and has been used on occasion for the parking of cars. The entrance to the club property leads from the Albion Road through the expropriated parcel.

In 1935 the Thistledown Golf and Country Club Limited granted an easement upon the land in question to the Hydro Electric Power Commission of Ontario to erect and maintain certain poles and wires.

Evidence was submitted by four valuators—two for each party. The Applicants' valuators contended certain severance damage and loss of parking facilities and alleged necessity for re-construction of the eighth tee of the present golf course. On the other hand the valuators for the Respondent disclaimed any severance damage but claimed the easement to the Hydro Electric Power Commission a detriment and the loss of parking facilities negligible.

The valuations given were as follows:

For Applicant: 900 feet at $5.00 per foot—$4,500.00, $4,000.00 per acre of $2,500.00 per parcel with $250.00 for severance.

For Respondent: $1,000.00 per acre or $626.00 per parcel, $1,000.00 per acre as basis—or under all circumstances $1,000.00 per parcel.

The Board was of the opinion that the value to be considered was the value to the owner as it existed on the date of expropriation, and came to the conclusion that these lands possessed certain advantages prior to that date. Accordingly, under date of the 8th day of January, 1951, the compensation was fixed at $1,600.00 for the parcel.

INCREASE IN MOTOR BUS FARES

P.F. C-6324

IN THE MATTER OF Section 73 of "The Ontario Municipal Board Act" (R.S.O. 1950, C. 262).

— and —

IN THE MATTER OF an application by the Oshawa Railway Company for approval of an increase in the amount of the fares to be charged for the transportation of passengers in motor buses operated by the applicant, the Oshawa Railway Company.

DECISION

This application was made by the Oshawa Railway Company requesting approval of an increase in the amount of fares to be charged for the transportation of passengers in motor buses operated by the applicant, in the City of Oshawa in accordance with the following tariff:

ADULTS

Cash fare ten cents (10c.) (no change)

Tickets — three (3) for twenty-five (25) cents.
(present fare four (4) for twenty-five (25) cents)

Books of tickets—twenty-four for $2.00 (present fare thirty-two (32) for $2.00).

CHILDREN (51 inches and under)

Cash fare—five cents (5c.) (no change)

Tickets — seven (7) for twenty-five cents (25c.) (present fare eight (8) for twenty-five cents (25c.)).

It is of interest to trace the history of the operation of these buses of the Oshawa Railway Company within the City of Oshawa: In 1890 the Oshawa Railway Company entered into an agreement with the City of Oshawa under the terms of which the Oshawa Railway Company was given the right to construct, maintain and operate certain lines of railway along certain streets in the City and that service constituted both the freight or switching service and the carrying of passengers. By an agreement dated October 27, 1939, provision was made for the substitution of the operation of electric cars for a bus operation. By Section 8 of this agreement, the Oshawa Railway Company agreed to sell tickets to passengers for bus transportation at the rate of four tickets for twenty-five cents (25c.) for adult passengers and eight (8) tickets for twenty-five cents (25c.) for children under fifty-one (51) inches in height. The cash fares were fixed at ten (10) cents for adults and five (5) cents for children under fifty-one inches in height.

It was further provided that these fares should not be increased by the Railway Company except by agreement with the City, provided, however, that if an increase be requested by the Railway Company and refused by the City, the Railway Company might apply to The Ontario Municipal Board or any other body of competent jurisdiction for relief. Apparently the Oshawa Railway Company made a submission to increase its fares to the Oshawa City Council and its application for an increase was refused. The Oshawa Railway Company then applied to this Board for an increase.

The only evidence submitted at the hearing was presented by the Railway Company through its superintendent and accountant to prove the basis for asking for an increase was that while operating revenues had increased, they had not increased in the same proportion as operating expenses, which resulted in a deficit since the year 1948 and continued to increase until at the time the application was presented there was an operating deficit of some fifty thousand odd dollars. The operating deficit was shown to be due to an increase in the cost of material and labour.

The hourly rates paid to bus operators alone, from 1940 to 1951, are as follows:

January, 1940	55 cents
March 15, 1943	59 cents
February 16, 1944	69 cents
November 1, 1944	74 cents
June 1, 1946	84 cents
March 31, 1947	89 cents
March 1, 1948	$1.06
August 31, 1950	1.14
June 1, 1951	1.35

There were forty-seven bus operators on the staff of the Railway Company and in addition there were approximately twenty other employees including mechanics, cleaners, helpers and various office staff who have received increases in approximately the same ratio as the bus operators.

During the year 1950-1951, nineteen older buses were replaced with nineteen modern buses, the older buses being of the twenty-one passenger type and the newer of the thirty to thirty-two passenger type, and the cost of these buses is practically double the cost of buses in 1940. It would naturally follow that in operating buses of larger carrying capacity that there would also be an additional cost in connection wtih fuel and gasoline and also repair parts.

From submissions it appeared that the difference in the cost of materials over the last three years varied from 9.9% to 191.1%. Cost of gasoline increased in consumption cost from 22½ cents a gallon in 1941 to 30½ cents a gallon in 1950; tires in the previous three years had increased 20.8%; wheels 114% and other commodities in varying ratios. Again there was a great increase in the amount of taxes paid by the Company for the privilege of operating its buses on the streets of the City of Oshawa. These taxes included gasoline taxes, bus licences and property taxes and unemployment insurance. The Company provided free uniforms for its bus operators and there was an increase in the cost of these uniforms of from $8.00 to $10.00 in the previous

year. A new five day week had been worked out effective as of June 1, 1951, and by reason of this an additional eight bus drivers, one mechanic and two cleaners would be required in addition to the ordinary working staff.

Evidence also was given by the Railway Company showing the increases in various cities and towns in the Dominion of Canada: Since January 1, 1941, twenty-six companies had an increase in basic adult fares and of these fourteen were accorded a second increase, and of these fourteen, four were accorded a third increase. These are set out in the Canadian Transit Association Fare Chart of August 15, 1951.

It might be pointed out that of the twenty-six said transit companies operating in Canada, at the present time there are only four companies where the basic adult fares are less than three tickets for twenty-five cents.

From a statement of revenue and expense of Oshawa bus operations from January to September 1951 filed with the Board, a deficit was shown in January of $2,477.00 and this increased to $13,456.00 in August 1951, a total deficit for the nine months of $57,251.00.

A brief was filed on behalf of the City of Oshawa and the District Labour Council by Secretary-Treasurer, Mr. M. J. Fenwick. This brief was to the effect that the burden of any fare increase would fall on the working man and that the Labour Council opposed the proposed fare increase as a matter of general policy and not because of any dispute with the Company. The Board did not acquiesce with this submission, as the main reason for the Company's application for increased fares was as a result, in one instance, of the increased cost of labour. From the various statements of revenue and expense submitted at the hearing it appeared to the Board that the Company could not carry on its operations under the increasing deficit and came to the conclusion that the Company was entitled to an increase in its fares. The Board therefore under date of December 3rd, 1951, issued a decision permitting the Oshawa Railway Company to increase its fares effective as of January 1, 1952, as follows:

ADULTS

Cash fare—ten (10) cents

Tickets—three (3) tickets for twenty-five cents (25c.)

Books of tickets—twenty-four tickets for $2.00.

CHILDREN (fifty-one (51) inches and under)

Cash fare—five (5) cents

Tickets—seven (7) for twenty-five cents (25c.).

RESTRICTED AREAS

P.F. C-4275

IN THE MATTER OF Section 390 of "The Municipal Act" (R.S.O. 1950, C. 243).

— and —

IN THE MATTER OF an application by the Corporation of the Township of North York for approval of its restricted area By-law Number 7056 intituled: "A By-law to regulate the use of land and the character, location and use of buildings and structures," passed October 12th, 1950, and amending By-law Number 7211 (Registered Plan 3855).

DECISION OF THE BOARD

This by-law required the greater part of the subdivision in question to be used only for single family dwellings but permitted Blocks "G" and "H" on the north side of Wilson Avenue as shown on the plan to be used for the construction of duplexes and multiple-family dwellings with the approval of the Planning Board of the Township.

On the hearing of the original application on November 9th, 1950, Counsel for the owner of the subdivision, Hergo Properties Limited, asked the Board to refuse approval on the sole ground that Blocks "G" and "H" should not be restricted to residential uses but should be designated as commercial sites. The hearing was adjourned in order to permit this objection to be reconsidered by the municipal council. Subsequently on the 12th day of February, 1951, the council for that year passed an amending by-law (Number 7213) by which an additional subdivision was brought within the restricted area, but no change was made in the uses permitted for the two blocks in question. The Board necessarily therefore assumed that the proposed restrictions, notwithstanding the objections of the owner, had been approved by two successive councils.

At the adjourned hearing on the 10th day of April, 1951, counsel for the municipality again requested approval of the original by-law, as amended, and the application was supported by counsel for Mr. J. K. Crang, the owner of an extensive adjoining subdivision known as Plan Number 3991. Counsel for Hergo Properties Limited renewed his original objection, and at the conclusion of the evidence and argument of counsel, the Board's decision was reserved.

Counsel for the Township adduced evidence to show that the decision of the municipal council to impose residential restrictions on this section of the Wilson Avenue frontage was in accordance with a definite policy recommended by the Planning Board intended to prevent what is called "ribbon development" of business areas along the entire length of important traffic arteries, such as Wilson Avenue. It was shown that when the former owner of the land had submitted a draft plan of the subdivision to the Minister of Planning and Development for approval under the provisions of The Planning Act, 1946, as amended, the Minister had requested the opinion of the municipal council in accordance with the usual procedure in such matters. The council had then required, as a condition to its approval, an agreement in writing to be signed by the then owner, Acme Subdivisions, Limited, consenting to a municipal by-law

restricting the entire subdivision to residential uses and setting out a scheme of regulations appropriate for such a development. This document dated the 31st day of May, 1950, and bearing the corporate seal of the company, was duly delivered to the council and a copy forwarded to the Minister. The agreement was filed with the Board on the hearing and the by-law before the Board appeared to conform closely to its terms. There seemed to be no doubt that when the draft plan of subdivision was finally approved by the Minister on the 9th day of June, 1950, and the plan duly registered on the 16th day of the same month, both the owner and the municipal council were in complete agreement as to the restrictions which would be made to apply to the property by way of a duly enacted and approved Municipal by-law, and that the proposed scheme of restrictions was satisfactory to the Minister. This did not, of course, in any way restrict the power of the Board to exercise its own discretion on the application under consideration and the objections raised by the present owner, who purchased the property under agreement for sale on June 16th, 1950, required to be dealt with on their merits. The events which preceded the registration of the plan were of some importance however as an indication of the consistent attitude of the council on a matter of policy which had been considered long before the enactment of the By-law.

Counsel for the present owner contended that his client had received no notice of the condition which had been accepted by the former owner in order to obtain approval of the draft plan of subdivision. The evidence on this point was conflicting but the Board was unable to agree with the suggestion of counsel that lack of notice would in some way amount to a waiver or an estoppel which would prevent legislative action by the council in a matter clearly within its jurisdiction. The Board found that the council acted in good faith throughout, and that the By-law was passed in accordance with the Council's views of the public interest, and the question whether the ownership had changed was not important. The company was in the same position as other purchasers of undeveloped land in rapidly growing urban and suburban areas and had to assume the risk that the Municipality might at any time adopt a policy of land use control which might be quite inconsistent with the private plans of the purchaser.

After reviewing the evidence and inspecting the location, the Board came to the conclusion that the By-law must be approved. While it might be conceded that the two blocks in question were not as suitable for residential development as the northern portion of the subdivision, the Board was of the opinion that the By-law carried out a well-considered and reasonable plan of development of the entire area which might well be for the ultimate benefit of the great majority of the present and future residents. It did not feel that sufficient evidence was adduced to justify the Board in interfering with the council's determination of both the location and the extent of the commercial areas required to serve the future population of this part of the Township. If at some future time it could be established that the By-law has actually resulted in preventing any economic use of the land in these two blocks, an amendment would undoubtedly receive the sympathetic consideration of the council at that time, failing which the legislation provides a means of relief by way of appeal to this Board.

The Board included in its Decision a reference to an objection to the By-law which was not raised by counsel. The concluding paragraph of Section 3 of the By-law attempted to give the Planning Board a discretion as to the

conditions under which duplexes or multiple-family dwellings might be erected in blocks "G" and "H". In the opinion of the Board, provisions of this type are undesirable on principle and perhaps invalid in law. Present or prospective owners of the property should be able to ascertain from the By-law itself the regulations applicable to any permitted use and their rights should not depend upon any discretionary action of the Planning Board or any other appointed or elected authority. For this reason the concluding portion of this paragraph was not approved. As this provision was clearly severable an Order, under date of May 30th, 1951, was issued approving the balance of the By-law and the amending By-law.

If the council should see fit to adopt a further amendment setting forth suitable regulations for the construction of duplexes and multiple-family dwellings in Blocks "G" and "H" of the subdivision, the Board expressed a willingness to issue such further directions for notice and hearing of the application for approval as might be deemed necessary.

P.F. C-5485

IN THE MATTER OF an application of the Township of Etobicoke for approval of its By-law Number 8066 intituled: "A By-law to amend Zoning By-Law Number 7673."

DECISION OF THE BOARD

The express purpose of this amending By-law was to define more clearly the depth of commercial areas as shown on the zone map attached to and forming part of the original By-law. The enacting clause prescribed a depth of 150 feet from the street, except in cases where a commercial zone was wholly bounded by streets or lanes.

The objections raised at the public hearing were made by the owners of a small number of deep lots on the north side of Dundas Street in the vicinity of Burnhamthorpe Road and Burnhamthorpe Crescent. In this area there are a number of parcels varying in depth from 200 feet to 400 feet which lots have been the result of sales by metes and bounds over a period of years. The owners of these lots objected to a regulation which prevented the use of the rear portions of their lots for commercial purposes. Unfortunately, there is a well developed built-up residential area which immediately adjoins the rear of these deep lots and the Municipal Council undoubtedly wished to protect these valuable residential properties from the depreciating influences of commercial uses in close proximity to the residential zone.

The evidence adduced at the hearing made it abundantly clear that for the great majority of the existing subdivided lots lying in commercial zones the proposed 150 feet depth was amply sufficient. Under these circumstances the issue argued before the Board was whether a special boundary along the rear of the existing deep lots should be established in this particular district or

whether the general regulation should be approved notwithstanding the apparent hardship to the comparatively few owners. The Board recognized the difficult problems involved in framing a general zoning By-law in a municipality where, for one reason or another, it is necessary or desirable to establish boundaries between various zones which cannot in all cases be designed to follow existing lot lines. On the whole evidence it was satisfied that the present By-law was the result of careful and fair consideration of the interests of many different groups of owners and that the Council's decision had not been made in any arbitrary manner or with any intent to discriminate against any particular person. The By-law was therefore approved under date of June 5th, 1951.

This did not mean, as alleged by counsel for the objecting owners, that the rear portions of the deep lots in question will necessarily be rendered completely useless. The Board considered it quite possible that careful re-subdivision of the lots affected might result in making the rear portions of these lots valuable for some sort of residential use. It is also possible that individual owners might secure approval of some particular type of limited commercial use which would not cause any serious damage to the adjoining residential properties, either by way of specific amendments of the By-law under Subsection (17) of Section 390 of "The Municipal Act" or by way of an exemption granted by the Committee of Adjustment under Section 15 of "The Planning Act" (R.S.O. 1950, C. 277). It will be noted that both these sections provide for appeals to this Board where any proposed exemption or amendment is unreasonably refused.

P.F. C-5792

IN THE MATTER OF an application of the Corporation of the City of Toronto for approval of its By-law Number 18293, intituled: "A By-law to repeal By-law Number 16477 insofar as it prevents the use of existing buildings on Dundas Street West, north side, between Rusholme Road and Rusholme Drive, for social club and restaurant purposes."

DECISION OF THE BOARD

On May 14th, 1951, the Council of the City of Toronto passed By-law 18293 for the purpose of amending a previous By-law 16477, passed January 21, 1946, which had imposed certain restrictions on a single block of land on the north side of Dundas Street West, between Rusholme Drive and Rusholme Road. The existing By-law limited the use of the lands in this block to the purposes of "an office or a retail store, other than a gasoline service station," and to "private" residential purposes so as to include duplex and double duplex dwelling houses, three family houses, apartment houses, doctor's or dentist's office and the keeping of roomers and boarders.

The amending By-law included as additional uses, the purposes of a "social club" and restaurant. Neither of these appeared to be out of place

in an area where apartments, boarding and rooming houses and retail stores of unlimited size are permitted, nor could it be said that the By-law was inconsistent with the scheme of land use outlined in the Official Plan of the City which was adopted by the council May 1st, 1950, and subsequently approved by the Minister of Planning and Development, pursuant to The Planning Act (R.S.O. 1950, C. 277). By that plan both sides of Dundas Street in this area were designated a commercial area. Nevertheless a large number of owners of property in the residential district immediately north of this part of Dundas Street appeared before the Board to oppose the application. It was evident that they did not object to clubs and restaurants as such but that their substantial objection was to premises of any type which might be used for the sale or consumption of liquor, wine or beer under licences issued pursuant to The Liquor Licence Act (R.S.O. 1950, C. 211). Most of the evidence adduced by counsel for the objectors was clearly intended to support the contention that licensed clubs or restaurants would seriously depreciate the value of the residential property north of Dundas Street and would make the entire district less desirable. On the other hand, the application for approval was supported by counsel for the owner and intended occupant of a large two storey commercial building recently erected at 1354-60 Dundas Street West. The ground floor of this building was occupied by a large retail food store and a smaller retail store and the owner proposed to lease the second floor to a club which was located in premises on the south side of Dundas Street east of the block in question. It was claimed that under the existing By-law, the rental of the large floor space on the second floor was difficult as there was a limited demand for such space either for professional offices or retail purposes and that because of the location and the heavy traffic on the street it was unsuitable for residential purposes. Counsel for the City contended that the street being predominately commercial, in the interests of both the City and the owners of the Dundas Street frontage it was necessary to permit a variety of non-residential uses in order to protect the assessment value of the business frontage.

Following the hearing and at the request of counsel, the Board inspected the area in question. This section of Dundas Street, with adjoining sections to the east and west, contained a large number of business and commercial establishments including some small industries. The predominate use was clearly commercial and the street being a very busy traffic artery was obviously quite unsuitable for residential purposes. There seemed to be no reason why on the evidence and upon inspection of the area this By-law should not be approved unless the Board were to give effect to the objection previously mentioned.

After careful consideration of the evidence and the arguments of counsel, the Board came to the conclusion that the objections raised at the hearing were based upon a misconception of the powers of both the City Council and this Board in dealing with By-laws of this type. It is true that Section 390 of The Municipal Act gives municipal councils very wide powers to control the use of land and premises subject to the approval of this Board. The Legislature has, however, in The Liquor Licence Act itself undertaken to deal with a certain subject matter involving the use of land and premises and has constituted a Liquor Licence Board with exclusive authority to issue, renew, revoke or suspend licences for the sale or consumption of liquor, wine and

beer, subject to the provisions of that Act and the regulations, including important local option provisions. It appeared to the Board that the question whether premises to be used for the purposes of a club, a hotel, a tavern or a restaurant might be located in any specified portion of a municipality, was entirely distinct from the question whether a particular building so used should be licensed under the Act referred to. Many such premises properly permitted in business and commercial districts were not and might never be licensed. If the Board were to give effect to the objection advanced so vigorously in this case, it would, in effect, be assuming and exercising a discretionary power which the Legislature has vested in the Liquor Licence Board. The implied limitations which restrict apparently wide powers delegated to municipal governments are referred to in such cases as *Morrison vs. City of Kingston* 1938 O.R. 21, at page 26, and *Springford vs. St. Catharines* 1941 O.W.N. 409, at page 411. In the opinion of the Board the objections advanced to the present By-law were made prematurely and before the wrong tribunal.

The Board therefore under date of the 12th day of October 1951, granted the application and approved the amending By-law, and order under that date was issued accordingly.

P.F. C-7022

IN THE MATTER OF an application of the Corporation of the City of Toronto for approval of its By-law Number 18436, intituled: "A By-law to prohibit the use of land or erection or use of buildings or structures on Dundas Street West, north side, between Rusholme Road and Rusholme Drive for a social club or restaurant purposes."

DECISION

In this application the Corporation of the City of Toronto sought approval of a By-law passed on the 2nd day of November, 1951, designed to prevent the use of a comparatively short block of business property on the north side of Dundas Street for the purposes of a social club or restaurant. On the 14th day of May, 1951, the same council adopted By-law Number 18293 permitting such uses in the same location. After an extended public hearing on June 26th, 1951, the previous By-law was finally approved in a written decision of the Board on October 12th, 1951. At that hearing counsel for the city vigorously supported the By-law on the ground that it was entirely consistent with the existing development of the area and with the official plan of the city which had been adopted by the city council on May 1st, 1950, and subsequently approved by the Minister of Planning and Development. As stated in the Board's former decision it was clear that the opposition to the former By-law was not based upon any objections to clubs and restaurants as such in this location. The real objection was to the establishment of premises which might be licensed for the sale or consumption of liquor, wine or beer

by the Liquor Licence Board under the authority of the Liquor Licence Act. For the reasons stated at length in the decision referred to the Board decided it could not give effect to that objection.

Immediately after the Board's decision on the previous application further representations were made to the city council and more particularly to the property committee requesting the immediate repeal of the By-law. The committee apparently had some difficulty in deciding upon its recommendation. It was quite clear that at first it decided to take no action on the request for the repeal of By-law 18293, but when the report containing the recommendation was referred back it reversed its decision and on October 29th, 1951, recommended the repeal of the By-law. So far as appeared from the evidence given before this Board, neither the property committee nor the city council at any time considered it necessary or desirable to refer the problem to one body which might be considered well qualified to make an independent and impartial recommendation, namely the City Planning Board. That board was apparently never asked for its opinion, notwithstanding the fact that it had been responsible for the basic scheme of land uses set forth in the city's official plan, which the council finally adopted only one year before the present controversy arose.

However, as late as June 19th, 1951, the City of Toronto Planning Board recommended an amendment of the official land use plan reading in part as follows:

"For the purposes of this map,

(b) the term 'commercial' includes offices, retail stores, service shops and premises, public service, protection and utility premises and undertakings, places of amusement, small workshops, airports and airfields;"

This amendment was subsequently approved by the city council on the 25th day of June, 1951, and became effective with the approval of the Minister of Planning and Development on the 5th day of July, 1951.

In the result this Board was asked to approve a By-law which seemed to be quite inconsistent with both the official plan and any zoning scheme which could be reasonably applied to this section of Dundas Street. Whatever might be said as to the wisdom of permitting clubs and restaurants in apartment house or multiple family residential areas, no second reason was given at the hearing for refusing to permit them in commercial areas. The history of these two By-laws as outlined at the hearing indicated that the present By-law, at least, was not based upon any considered decision of the council on the broad general problem of the proper location of clubs and restaurants, or any definite conception of the type of commercial district desired along this section of Dundas Street. The By-law made no distinction between licensed and unlicensed clubs and restaurants but, on the contrary, prohibited all social clubs or restaurants of whatever type or size and the council would impose this drastic prohibition upon only one side of a short block on one of the oldest and most heavily travelled commercial streets in the city. It had, moreover, adopted this prohibition after the premises in question had been leased and partly occupied by a particular club which had for some time previously, with the tacit approval of the council, carried on its operations on the opposite side of the same street, less than half a block away.

It appeared to the Board that under these unusual circumstances a heavy onus rested upon the applicant to satisfy the Board that the By-law was part of a consistent zoning scheme intended to apply to similar areas throughout the city, and that it had not been aimed at a particular property or a particular occupant. The Board gave most careful consideration to the evidence and arguments adduced at the public hearing which occupied nearly two days, and decided, under date of January 22, 1952, that the onus resting upon the corporation had not been met, and that the By-law should not be approved.

This disposed of the only question before the Board, namely whether there was any justification for refusing to permit the use of business premises in this area for the exact purposes mentioned. As stated in the previous decision the legislature has seen fit to vest in another authority the power to decide whether this particular tenant should be allowed to transfer or renew its present club licence or whether future clubs or restaurants which might be located in the area should be granted a licence.

P.F. C-5796

AND IN THE MATTER OF an application by the Corporation of the City of Toronto for approval of its restricted area By-law Number 18299, intituled: "A By-law to restrict to certain residential, commercial and other uses only, lands, buildings and structures within certain areas comprised of lands abutting on Eglinton Avenue West, either side, between Oriole Parkway and the west City limits."

DECISION

This application was the subject of a public hearing after written notice to the owners of all the properties included in the area or within a distance of 200 feet from its outer boundaries, in accordance with the directions of the Board. The only owners who appeared personally or through counsel to oppose the By-law were Mr. W. E. Bridgman, owner, and Langley's Limited, tenant, of certain premises at 355 Eglinton Avenue West; The British American Oil Company Limited, owners and operators of a large automobile service station at the south-east corner of Eglinton Avenue and Avenue Road, and Famous Players Canadian Corporation Limited, operators of the Eglinton Theatre at 400 Eglinton Avenue West and an accessory parking lot also within the area.

After some discussion of the issues raised by the two last mentioned companies, their counsel withdrew their objections for the purposes of the present hearing on the assurance of counsel for the City that the matters complained of would be remedied in a general zoning By-law to be presented to the City Council in the near future and eventually submitted to this Board for approval.

There remained, however, a serious objection to the By-law which was advanced with great force by counsel for the owner and the tenant of the premises at 355 Eglinton Avenue West. This objection was based on the

exclusion from the list of permitted uses of the business of dry-cleaning plants generally, and in particular, a certain types of "package" plant which the tenant wished to install in a contemplated addition at the rear of the above premises. On the other hand, the exclusion of this use was strongly supported by counsel for the City and by counsel representing a number of property owners in the immediate vicinity who felt that the operation of a business of this type would depreciate the value of their property and that the general character of the business district which had become established along Eglinton Avenue would suffer if dry-cleaning plants of any type were permitted. One aspect of this controversy had been the subject of recent litigation, and Mr. Bridgman had applied and obtained a mandatory order requiring the issue of a permit for the erection of the building addition referred to above. The judgment of the Honourable the Chief Justice of the High Court, dated the 18th day of May, 1951, was reported, in part, in 1951, O.W.N. at Page 472. It was quite clear, however, that the issues considered and decided in the judgment in question differed materially from the questions before the Board in this application. When the application for a mandamus first came before the Court on May 11th, 1951, the present By-law had been given first and second readings by the City Council but it had not been finally passed. As a result the applicant's alleged right to the issue of a building permit had to be determined in the absence of a valid and effective By-law, prohibiting the use of the premises for the purpose of a dry-cleaning plant. The learned Chief Justice for the reasons set out at length in the judgment and in view of all the circumstances refused to exercise his discretion to stay the hearing of the application for the permit until the City's application to this Board for approval of the new By-law had been disposed of. The judgment, however, clearly recognized the legislative power of the municipality to interfere with the common law rights of property owners to the extent of the authority given by the Legislature and in conformity with the legislation conferring such powers. The distinction between an enquiry into the legality of such a municipal regulation and its wisdom was carefully pointed out.

It was clear that the present duty of the Board was to decide whether this By-law should be approved on its merits regardless of the circumstances preceding or accompanying its enactment and notwithstanding the position of an individual owner or occupant who might find his rights substantially curtailed if approval be granted. The question to be decided was whether on the evidence the proposed regulations should be approved in the public interest notwithstanding some resulting hardship to one or more individual owners.

The evidence covered a wide field and the Board was reasonably satisfied that the By-law was the result of a careful investigation of the claims of those supporting or opposing the inclusion of this particular type of dry-cleaning operation. There could be little doubt that the operation of a completely self-contained dry-cleaning unit of the type described in the evidence of Mr. Clarkson, President of the Dry-cleaning Institute and shown by photographs would not be as objectionable as the operations of the usual type of plant. It might also be conceded that under ideal conditions and with the inclusion of special regulations respecting methods and hours of operation, number of persons employed, volume of traffic, ventilation and other safeguards, it might be possible to include in the present list of permitted uses operations which are usually considered objectionable in a high class retail shopping area. In the opinion of the Board, however, such refinements should not ordinarily be

required by this Board in advance of their acceptance in principle by a substantial number of the owners of property in the area and their elected representatives in the City Council who are charged with the responsibility of adopting a zoning scheme intended for the protection of property values and amenities in such a large and valuable commercial area. For these reasons the Board was not prepared to accede to the request of counsel for the objectors that this property should be exempted from the provisions of the By-law or that the Board should attempt to define in precise terms the type of dry-cleaning operation contemplated in a "package" cleaning plant and exempt such plants by direct order. It was still less inclined to require the City Council to amend the By-law against its will and in the face of the serious objections of many interested owners, in order to permit the inclusion of this special use. It was satisfied that the present By-law represented the considered opinion of the council as to the type of commercial district to be established in this area notwithstanding the apparently inconsistent action of a former council in passing By-law Number 7734 on November 13th, 1950. The passage of that By-law resulted in vigorous and continued protests from the owners of property throughout the area. As a result the Board refused approval of the By-law after a public hearing on January 24th, 1951. The evidence of that hearing indicated that the council had acted somewhat hastily in passing the By-law at the request of Langley's Limited and that it had acted without any sufficient investigation of the effect of the proposed use upon adjacent property values.

On the whole evidence the Board was unable to find any justification for interfering with the views of the council, as expressed in the By-law, on the question of permissible business uses in this area. In the Board's opinion the council had not acted hastily or without due consideration of the interests of all the persons concerned.

For the above reasons an order was issued under date of October 2, 1951, approving the By-law as passed.

P.F. C-6501
P.F. C-6903

RE WINDSOR ZONING BY-LAW 728

Two applications for amendments to this By-law by By-laws 936 and 943 exemplified the trend of the Board's opinion in that, in one case, substantiated by objections from property owners a strip of land on the west side of Factoria Road was prevented from being classified for industrial purposes but must "be preserved as a buffer affording some protection from railway and industrial uses to the west." The second amendment involved a lowering of minimum restrictions for front yards and approval was refused unless consents were obtained of owners of two lots immediately adjoining to the north of the property in question.

SUBDIVISION PLANS

P.F. C-5812

IN THE MATTER OF Sections 26 and 29 of "The Planning Act" (R.S.O. 1950, C. 277),

— and —

IN THE MATTER OF a reference to the Board by the Minister of Planning and Development of a draft subdivision plan, being a redivision of Block "A," Plan 3607, in the Township of North York

NORTH PARK DEVELOPMENTS LIMITED

Owner

— and —

THE CORPORATION OF THE TOWNSHIP OF NORTH YORK

DECISION OF THE BOARD

North Park Developments Limited applied to The Department of Planning and Development for approval of a draft plan of subdivision of Block "A," Plan 3607 in The Township of North York. The land to be subdivided comprised about 16 acres, composed of part of Lots 8 and 9 in Concession IV of the said township and located a short distance west of Keele Street.

The owner objected to the conditions suggested by the Township before its consent to approval of the plan could be obtained, and at its request the matter was referred to the Board and hearings were held and an inspection of the proposed subdivision made by the Board.

At the hearings the points in contention were contained in an agreement which the township required from the owner before consenting to the approval of the plan. These were briefly as follows:

I. The owner to supply services including hard surfaced roadways, watermains, street lighting and street signs at an estimated cost of about $85,000.00 and to deposit this amount with the Township Treasurer to be paid out as the works progressed.

II. Houses were not to be built on 26 of the 63 lots in the subdivision until approval was obtained from the Township Drainage Engineer nor on 22 out of the same 26 lots until approval was obtained from The Township Medical Health Officer.

III. The owner to release the township from all actions for damages due to grade alterations and so forth and the work to be done under the supervision of the Township Engineer.

With the addition of other minor conditions the owner considered the terms too onerous.

The Board considered that under normal conditions the proposed agreement would be too exacting as a condition to obtaining consent to the approval of a plan of subdivision and was of the opinion that the real reason for the reluctance of the township to give such consent was the inability of the township to provide financing for services and the present lack of water and also the availability of large numbers of individual serviced buildings lots in the township which made this proposed plan premature and not in the public interest.

The land comprising the proposed subdivision is roughly rectangular in shape with a length from east to west of 2,138 feet and a width from north to south ranging from 266 feet to 455 feet.

There is a well defined watercourse which enters the property in question at the north-east corner and follows a south-westerly course through the subdivision to the south-west corner: it is a tributary of Black Creek. It is joined at about the middle of the property by a subsidiary watercourse which comes in across the northern boundary. The existence of these watercourses creates quite a problem of drainage and sanitation and not doubt was responsible for the provisions in the proposed agreement, whereby the township sought to control the construction of houses on the lots affected by them.

The Board believed that this problem should be solved before the land could properly be suitable for house construction and for this and other reasons stated herein on December 21st, 1951, refused its approval.

TABULATION OF ASSETS AND LIABILITIES AS OF DECEMBER 31st, 1952

Name of Railway	Authorized Capital Stock	Cost of Railway Equipment Land and Buildings	Cash and Other Assets	Deficit	Capital Stock Outstanding	Funded Debt and Real Estate	Current Liabilities	Accrued Liabilities Sinking and Other Special Funds	Surplus
Cornwall Street Railway Light and Power Company Limited	$200,000.00	$2,711,294.70	$286,752.71	.....	$200,000.00	$1,580,000.00	$89,018.85	$1,049,309.88	$79,718.68
Hamilton Street Railway Company	400,000.00	405,525.00	326,864.00	$67,617.00	400,000.00	2,311,298.00	264,725.00	1,773,727.00	.....
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mattagami Railroad Company	250,000.00	287,484.43	187,382.55	.....	250,000.00	.....	548.48	154,322.13	150,000.00
Port Arthur Civic Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....
Public Utilities Commission of Kitchener	.....	.....	.....	.....	.....	.....	.....	.....	.....
Niagara Peninsular Railway Company	200,000.00	42,437.68	52,944.64	.....	50,000.00	.....	.....	.....	45,382.32
Sandwich, Windsor and Amherstburg	.....	3,901,015.79	1,876,369.46	91,998.80	.....	3,350,000.00	85,737.84	2,405,180.23	28,466.28
Southern Algoma Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sudbury-Copper Cliff Suburban Electrical Railway	.....	.....	.....	.....	.....	.....	.....	.....	.....
Thurlow Railway Company	50,000.00	57,973.33	.....	.....	25,000.00	.....	43,465.18	.....	10,491.85
Tillson Spur Line Railway Company	20,000.00	All Rolling Stock owned and operated by Canadian National Railway							
Toronto Transportation Commission	.....	119,985,545.47	8,208,305.12	.....	.....	35,013,320.00	5,183,174.32	81,376.50	5,934,445.66
Toronto Transportation Commission— Township of York and Weston Railway		Transfer to buses							
Toronto Transportation Commission— North Yonge Railway		Transfer to buses							

TABULATION OF CHARGES OTHER THAN OPERATING COSTS FOR YEAR ENDING DECEMBER 31st, 1952

Name of Railway	Interest on Funded Debt	Interest or Discount on Unfunded Debt	Taxes	Transfer to Special Accounts	All Charges Other than Operating Costs	Total Expenditures Including Operating Costs	Total Expenditures Excluding Operating Costs	Total Revenue from all Sources	Net Deficit from Year's Operation	Net Surplus from Year's Operation
Cornwall Street Railway Light and Power Company Limited	$79,000.00		$5,813.00	$100.57	$202,783.14	$610,235.79	$84,813.00	$587,670.56	$22,565.23	
Hamilton Street Railway Company	101,285.00		157,917.00	386,121.00	645,323.00	3,273,567.00	645,323.00	3,534,185.00		260,618.00
Huntsville and Lake of Bays Railway Company										
Mattagami Railroad Company			151.38	10,561.64	12,151.71	63,067.06	10,561.64	63,067.06		
Public Utilities Commission of Kitchener										
Niagara Peninsular Railway Company							26,443.89	29,274.00		2,830.11
Sandwich, Windsor and Amherstburg	173,999.99		77,427.31	442,910.72	694,338.02	2,901,204.40	694,338.02	2,913,263.23		12,061.83
Southern Algoma Railway										
Sudbury-Copper Cliff Suburban Electrical Railway										
Thurlow Railway Company						23,485.40		25,119.50		1,634.10
Tillson Spur Line Railway Company										
Toronto Transportation Commission	214,306.70		873,230.42	3,601,249.76	4,688,786.88	29,191,494.92	1,087,537.12	29,341,883.63		150,388.71
Toronto Transportation Commission—Township of York and Weston Railway						582,834.10		753,024.79		170,190.69
Toronto Transportation Commission—North Yonge Railway	Transfer to buses									

TABULATION OF OPERATING COSTS FOR YEAR ENDING DECEMBER 31st, 1952

Name of Railway	General Expenditures	Maintenance of Roadbed and Buildings	Maintenance of Equipment	Motive Power	Wages	Damage to Persons and Property	Miscellaneous	Total
Cornwall Street Railway Light and Power Company Limited	$69,080.73	$23,122.54	$88,321.52	$37,453.85	$174,879.90	$16,676.11	$16,094.72	$425,629.37
Hamilton Street Railway Company	451,563.00	59,485.00	69,814.00	70,756.00	1,022,512.00	16,571.00	312,243.00	2,002,944.00
Huntsville and Lake of Bays Railway Company								
Mattagami Railroad Company	1,804.37	11,921.93	2,349.17		14,756.21		3,825.92	34,657.60
Public Utilities Commission of Kitchener								
Niagara Peninsular Railway Company	96.50	9,736.04	7,888.64		7,176.44		1,546.27	26,443.89
Sandwich, Windsor and Amherstburg	See below.							
Southern Algoma Railway								
Sudbury-Copper Cliff Suburban Electrical Railway								
Thurlow Railway Company	95.84	10,464.68	2,353.34		8,133.99		2,437.58	23,485.43
Tillson Spur Line Railway Company	All Rolling Stock owned and operated by Canadian National Railway							
Toronto Transportation Commission	2,160,199.12	1,270,984.30	2,421,348.62	1,671,582.75	8,587,604.99	408,917.36	1,982,069.90	24,502,708.04
Toronto Transportation Commission—Township of York and Weston Railway								
Toronto Transportation Commission—North Yonge Railway								

	Maintenance of Plant and Equipment	Operating and Garage Expenses	Transportation Expenses	Traffic Promotion	Administrative and General Expenses			
Sandwich, Windsor and Amherstburg	$420,426.08	$492,621.93	$991,903.43	$4,249.62	$297,662.32			

TABULATION OF COMPARISON WITH PREVIOUS YEAR AS TO CAR MILES RUN, PASSENGERS CARRIED, ETC.
Year Ending December 31st, 1952

Name of Railway	Length of Track (Miles)		Car Miles Run		Passengers Carried		Accidents				Net Earnings	
							Killed		Injured			
	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease	Increase	Decrease
Cornwall Street Railway Light and Power Company Limited	8,025.29		11,296			119,729						$5,837.87
Hamilton Street Railway Company	No longer applicable										382,035.00	
Huntsville and Lake of Bays Railway Company												
Mattagami Railroad Company				2,164							748.00	
Niagara Peninsular Railway Company											1,239.61	
Sandwich, Windsor and Amherstburg				395,435		1,730,353					68,644.39	
Southern Algoma Railway												
Sudbury-Copper Cliff Suburban Electrical Railway												
Thurlow Railway Company												1,651.69
Tillson Spur Line Railway Company												
Toronto Transportation Commission				5,239,834		34,385,837					1,452,105.44	
Toronto Transportation Commission—Township of York and Weston Railway					67,340						49,113.91	
Toronto Transportation Commission—North Yonge Railway	No longer applicable											

ANALYSIS OF GROSS EARNINGS AND MISCELLANEOUS INCOME FOR YEAR ENDING DECEMBER 31st, 1952

Name of Railway	From Passengers	From Mail	From Express Parcels and Newspapers	From Freight	From Rental of Track, Buildings and Other Property	From Advertising	From Other Miscellaneous Sources	Total
Cornwall Street Railway Light and Power Company Limited	$282,158.01			$17,794.21	$202.00	$1,648.24	$125,713.10	$587,670.56
Hamilton Street Railway Company	3,485,826.00	13,908.00				18,641.00	10,535.00	3,528,910.00
Huntsville and Lake of Bays Railway Company								
Mattagami Railroad Company	231.17		2,307.29	27,173.28			33,336.40	63,048.61
Niagara Peninsular Railway Company	29,274.00							29,274.00
Sandwich, Windsor and Amherstburg	2,835,262.07		3,256.88		26,178.29	24,484.53	311.50	2,889,493.27
Southern Algoma Railway								
Sudbury-Copper Cliff Suburban Electrical Railway								
Thurlow Railway Company				25,119.50				25,119.50
Tillson Spur Line Railway Company								
Toronto Transportation Commission	28,183,319.51	171.11	63,242.72		604,173.20		344,690.98	29,195,597.52
Toronto Transportation Commission— Township of York and Weston Railway								
Toronto Transportation Commission— North Yonge Railway								

ELECTRIC AND STEAM RAILWAYS UNDER PROVINCIAL JURISDICTION, YEAR ENDING DECEMBER 31st, 1952

Name of Railway	Length of Road First Main Track (Miles)	Length of Road Second Main Track (Miles)	Total Main Track (Miles)	Length of sidings and Turn-outs (Miles)	Total Computed as Single Track (Miles)	Length under Construction (Miles)	No. of Power Houses		Remarks
							Steam	Water	
Cornwall Street Railway Light and Power Company Limited	3.000			7.000	20.000				
Hamilton Street Railway Company	No longer applicable								
Huntsville and Lake of Bays Railway Company									
Mattagami Railroad Company	3.000		3.000	3.947	6.947				
Niagara Peninsular Railway Company	3.325		3.325	2.115	5.440				
Sandwich, Windsor and Amherstburg									
Southern Algoma Railway									
Sudbury-Copper Cliff Suburban Electrical Railway									
Thurlow Railway Company	2.671		2.671	4.666	7.337				
Tillson Spur Line Railway Company	1.010		1.010	.051	1.061				
Toronto Transportation Commission	105.126	97.103	202.229	24.655	226.884				
Toronto Transportation Commission— Township of York and Weston Railway									
Toronto Transportation Commission— North Yonge Railway									

TABULATION OF CAR MILES RUN, PASSENGERS CARRIED, ACCIDENTS ETC., FOR YEAR ENDING DECEMBER 31st, 1952

Name of Railway	Length of Track Owned Miles	Length of Switches and Sidings Miles	Passenger Car Miles Run	Passengers Carried	Passengers Carried per Mile of Main Track Operated	Accidents (Claims)		Number of men employed	Passenger Cars			Miscellaneous													
						Killed	Injured		Cars Enclosed	Cars Open	Trailers	Mail and Baggage	Box and Cattle	Platform	Dump and Coal	Tool	Snow Sweepers	Snow Plows	Loading Cranes	Loco-motives	Buses and Trucks	Motor Cars	Gas Buses Equipped with Fenders	Trolley Coaches	Miscel'eous
Cornwall Street Railway Light and Power Company Limited	20.000	7.000	753,527	4,567,433	228,371	Nil	Nil	100	....	....	....	....	....	....	....	....	2	1	....	6	....	....	7	16	....
Hamilton Street Railway Company	.....	.....	6,071,117	38,024,082	.....	.....	401	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Huntsville and Lake of Bays Railway Company	.....	.....	.....	.....	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Mattagami Railroad Company	6.947	3.947	23,796	1,541	514	.....	.....	....	....	....	....	1	....	....	1	....	....	1	....	....	....	....	.....	....	....
Niagara Peninsular Railway Company	5.440	2.115	.....	.....	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Sandwich, Windsor and Amherstburg	.....	.....	5,103,467	25,536,713	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	168	....
Southern Algoma Railway	.....	.....	.....	.....	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Sudbury-Copper Cliff Suburban Electrical Railway	.....	.....	.....	.....	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Thurlow Railway Company	7.337	4.666	.....	.....	.....	.....	.....	....	....	....	....	....	....	3	28	....	....	....	1	....	....	....	1	....	2
Tillson Spur Line Railway Company	1.061	.051	.....	.....	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Toronto Transportation Commission	226.884	24.655	45,807,881	290,645,418	.....	.....	783	....	....	....	90	....	....	....	....	....	23	11	....	....	....	966	.....	....	....
Toronto Transportation Commission—Twp. of York and Weston Railway	8.615	3.521	1,096,148	12,891,922	.....	.....	.....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	.....	....	....
Toronto Transportation Commission—North Yonge Railway	Transfer to Buses																								